

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. 797 OF 2016

IN THE MATTER OF:

S.G.Vombatkere & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

WITH

I.A. NO. OF 2016:

AN APPLICATION FOR INTERIM RELIEFS

P A P E R B O O K

(FOR INDEX: PLEASE SEE INSIDE)

ADVOCATES FOR THE PETITIONERS: M/S. K.J. JOHN & CO.

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SYNOPSIS

The present writ petition under Article 32 of the Constitution of India is being filed in public interest raising various issues including among others, protection of fundamental right under Article 14, 19 and 21 of the Constitution of India. The core challenge is the violation of basic human rights of the citizens of this country as a result of the unique identification project (UID Project) which has been validated and given statutory backing by passing of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereinafter referred to as "impugned Act").

1. **IMPUGNED ACT IS CONTRARY TO THE CONCEPT OF LIMITED GOVERNMENT**

The Constitution of India like other constitutions that set out the basic law for democratic governance, employs an array of checks and balances to ensure open, accountable government where each wing of the government performs its actions for the benefit of the people and within its sphere of responsibility. The checks and balances are many and amongst them are the respective roles assigned by the Constitution to the legislature, the executive and the judiciary. Under India's federal structure, with a distribution of legislative authority between the Union government and the States, the fields of legislation and corresponding executive authority are also distributed between the Union and the States. Provisions in the Constitution such as the fundamental rights chapter (Part III) and the chapter relating to inter-state trade (Part XIII) also circumscribe the authority of the State.

These limitations on the power of the State support the notion of 'limited government'. In this sense, the expression 'limited government' would mean that each wing of government is restricted by provisions of the Constitution and other laws and is required to operate within its legitimate sphere. Exceeding these limits would render the action of the State *ultra vires* the Constitution or a particular law.

The concept of 'limited government' may also be understood in a much broader and different sense. This notion of a limited government is *qua* the citizenry as a whole. There are certain things that the State simply cannot do, because the action fundamentally alters the relationship between the citizen and the State. The wholesale collection of biometric data including finger prints and storing it at a central depository *per se* puts the State in an extremely dominant position in relation to the individual citizen. Biometric data belongs to the concerned individual and the State cannot collect or retain it to be used against the individual or to his or her prejudice in the future. Further the State cannot put itself in a position where it can track an individual and engage in surveillance. The State cannot deprive or withhold the enjoyment of rights and entitlements by an individual or make such entitlements conditional on a citizen parting with her biometrics.

It is the people of India who declared in the Preamble: -

'We the people of India. . . In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution'.

The Constitution of India is a compact between the people of India and the State. The essence of this compact as evident from the Preamble to the Constitution is that Indian society and the Indian nation would foster justice, liberty, equality and fraternity in the widest sense. The notion of limited government here would mean that every individual citizen and the citizenry collectively are entitled to live, work, and enjoy their varied lives without being under the continuous gaze of the State. Citizens of India enjoy a full and rich raft of rights against the State which are drawn from the common law, statutes, the Constitution and a higher order in the form of the 'basic structure of the Constitution'. Every citizen is entitled to secure an education, hold property, engage in social and cultural activity, travel, pursue vocations, recreations and a myriad other activities without the state knowing about his or her every move or maintaining a centralized record of these activities.

2. **THE IMPUGNED ACT AS IMPLEMENTED COERCES INDIVIDUALS TO PART WITH THEIR PERSONAL INFORMATION.**

A citizen is entitled to enjoy all these rights including social and civil rights such as the right to receive an education, a scholarship, medical assistance, pensions and benefits under government schemes without having to part with his or her personal biometrics. An individual's biometrics such as finger prints and iris scan are the property and entitlement of that individual and the State cannot coerce an individual or direct him or her to part with biometrics as a condition for the exercise of rights or the enjoyment of entitlements. Every citizen has a basic right to informational self-determination and the state cannot

exercise dominion over a citizen's proprietary information either in individual cases or collectively so as to place itself in a position where it can aggregate information and create detailed profiles of individuals or facilitate this process. The Constitution of India is not a charter for a Police State which permits the State to maintain cradle to grave records of the citizenry.

No democratic country in the world has devised a system similar to Aadhaar which operates like an electronic leash to tether every citizen from cradle to grave.

3. **IMPUGNED ACT CANNOT BE CATEGORIZED AS A MONEY BILL.**

There are several other patent flaws with respect to the impugned Act and the Aadhaar project. One of the most striking illegalities is the manner in which the impugned Act came to be passed as a Money Bill without having to secure passage through the Rajya Sabha. The impugned Act cannot in law be characterized as a Money Bill and the impugned Act is stillborn inasmuch as the mandatory legislative process has not been followed. At the time when the Bill was passed on 11.03.2016 by the Lok Sabha the attendance was merely 73 persons out of a Lok Sabha House strength of 543 members. Moreover, when the Rajya Sabha returned the Bill with suggestions/amendments, these came to be considered by the Lok Sabha on 16.03.2016 when none of the amendments /suggestions were accepted.

Apart from there being no adequate debate or discussion despite the serious and severe impact of the Bill on civil liberties; the illegalities

that renders the Act unconstitutional and *ultra vires* is its mischaracterization as a Money Bill and the failure to adhere to the constitutional legislative process.

4. **THE IMPUGNED ACT VALIDATES A SCHEME WHICH RESULTS IN EXCLUSION RATHER THAN INCLUSION OF INDIVIDUALS.**

It is submitted that biometrics as a technology is unreliable and as applied by the Respondents is serving as an instrument of exclusion depriving persons who are otherwise entitled to financial and other subsidies, benefits and services from receiving these entitlements. Going by the stand of UIDAI itself, the number of cases where de-duplication resulted in the rejection of an application for an Aadhaar number is to the tune of 9 crores out of around 100 crore enrolments. The number 9 crores is just a little less than the population of the State of Bihar and twice the population of Odisha (as per the 2011 census). This shows that every 10th person is not being issued an Aadhaar number (though applied for) because of the flawed biometric technology being used. Further, one study using official data shows that the proportion of "false positives" i.e. duplicates being shown erroneously is unacceptably high, resulting in exclusion of those entitled to benefits. This study suggests that 1/121 is the proportion of false positives by a conservative estimate. This ratio is strongly indicative of the programme excluding individuals who should otherwise receive their entitlements.

The accuracy of biometrics is highly doubtful for a variety of reasons: A person's biometrics change over time; for persons who are engaged in

manual labour and also persons who are aged, etc. ridges on the fingers smoothen out and cannot be captured effectively by biometric devices; and there is no safeguard at the crucial point of capturing the biometric that ensures the integrity of the process at the stage of enrolment.

5. **THE IMPUGNED ACT CREATES AN ENVIRONMENT WHICH CAN BE USED FOR SURVEILLANCE.**

The impugned Act is designed to facilitate and encourage private sector operators to create applications that depend upon the Aadhaar data base for the purposes of authentication/verification. This would mean that non-governmental, private sector entities such as banks, employers, any point of payment, taxi services, airlines, colleges, schools, movie theatres, clubs, service providers, travel companies, etc. will all utilise the Aadhaar data base and may also insist upon an Aadhaar number or Aadhaar authentication. This would mean that at every stage in an individual's daily activity his or her presence could be traced to a location in real time.

One of the purposes of Aadhaar as projected by the Respondents is that it will be a single point verification for KYC (Know Your Customer). This is permissible and indeed contemplated by the impugned Act. Given the very poor quality of scrutiny of documents by private enrollers and enrolment agencies (without any governmental supervision) means that the more rigorous KYC process at present being employed by banks and other financial institutions will yield to a system which depends on a much weaker data base. This would

eventually imperil the integrity of the financial system and also threaten the economic sovereignty of the nation.

One of the dangers of centralized data bases that are connected to the internet is that the information stored on these computers can be hacked and illegally accessed so as to steal the information. Identity theft enables third parties to utilize biometric and demographic information stolen and enables these parties to electronically impersonate persons while accessing data that is most sensitive or important for an individual.

Even assuming that the biometrics such as the finger print is unique, the nature of human and societal interactions is such that individuals leave traces of their finger prints on several media in the course of a day. These finger prints can be easily lifted and misused for identity theft. This is quite apart from the Respondents themselves or some agencies of government misusing core biometrics and planting these biometrics to create a false presence or false interactions by an individual. This type of impersonation is facilitated by the impugned Act rendering it patently unconstitutional.

The impugned Act does not serve as an identity as incorrectly projected by the Respondents but serves as a method of identification. Every citizen-state and citizen -service provider interaction requiring identification is sought to be captured and retained by the government at a central base and a whole ecology developed that would require reference to this central data base on multiple occasions in course of the day. In other words, the impugned Act impermissibly creates the

foundation for real time, continuous and pervasive identification of citizens in breach of the freedoms guaranteed under the Constitution.

It is in the above facts and circumstances the Petitioners are constrained to file the present writ petition under Article 32 of the Constitution of India, challenging the impugned Aadhaar Act as being ultra vires the Constitution of India.

LIST OF DATES

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|------------|---|
| 28.01.2009 | The Union of India through the Planning Commission issued a Notification dated 28.01.2009, constituted the Unique Identification Authority of India (UIDAI) for the purpose of implementing of Unique Identity (UID) scheme wherein a UID data base was to be collected from the residents of India. Notably, there was no mention of collection of biometric information in the said notification. Furthermore the notification did not provide any checks and balance with regard to the collection, storage, usage of the said information collected pursuant to the UID scheme. |
| 03.12.2010 | Although the programme was launched in September, 2010 there was no statutory backing of the same. On 03.12.2010, the Union of India introduced the National Identification Authority of India Bill 2010 (NIA Bill) in Parliament. The NIA Act |

was almost identical in pith and substance to the impugned Aadhaar Act, 2016.

13.12.2011

Notably, the said NIA Bill was referred to the Parliamentary Standing Committee on Finance. The Standing Committee gave its report on 13.12.2011, wherein it found several fallacies/lacunas in the NIA Bill. Certain specific objections raised by the standing committee pertained to:

- (i) Privacy issues,
- (ii) Protection of the sensitive biometric information,
- (iii) Private parties' involvement in the collection of the biometric information.
- (iv) Lack of appropriate technology in India to sustain such a project
- (v) Possibility of fake Aadhaar numbers being generated due to the inadequate verification system under the UID scheme.

NIL

In spite of the Standing Committee Report, the Government of India failed to correct/cure defects in the UID scheme.

Since the NIA Bill never got passed, the UID scheme continued to operate without any statutory basis or backing.

In an absolutely unscrupulous manner the government/UIDAI continued to collect private

biometric information from the citizens under the UID scheme.

Interestingly, there was absolutely no consent, let alone informed consent taken from the individuals who were made to part with their private information. Neither was there any information in the application/enrolment forms regarding the potential use of the said biometric information by the government, nor was there any general public awareness programme carried out by the government to explain the UID programme to the citizens.

The collection/enrolment centres were being run by private parties. There was absolutely no government presence in any of the enrolment centres. There were no Government personnel present in these centres where the individuals were made to give up their private biometric information. Furthermore the collecting agencies were also not government authorities. In fact they were agencies who were contractually related to the UIDAI. Therefore the entire UID programme was being conducted and carried out by private authorities with absolutely no government involvement. The entire UID programme was carried out on the basis

of numerous MoUs between UIDAI and the concerned authority.

30.11.2012

Aggrieved by such blatant violation of fundamental rights of the citizens of India, a spate of PILs were filed before this Hon'ble Court. The lead petition before this Hon'ble Court was *Justice K. S. Puttaswamy (Retd) v. Union of India &Ors.*, W.P. (C) No.494/2012. This Hon'ble Court vide Order dated 30.11.2012 issued notice in the said petition.

23.9.2013

The present Petitioners had also filed a PIL titled *S. G. Vombatkere & Anr. v. Union of India &Ors.*, W.P. (C) No. 829/2013. This Hon'ble Court vide order dated 23.09.2013 issued notice in the writ petition, and tagged it along with Writ Petition No. 494/2012.

Further, this Hon'ble Court on being apprised of the unconstitutional nature of the UID scheme and the gross abuse by the government in refusing essential benefits /services to the citizens if they did not possess and Aadhaar Card, passed an Interim Order dated 23.09.2013 where it was held that Aadhaar card should not be made mandatory for providing governmental benefits.

NIL

In spite of the express direction by this Hon'ble Court to not make the use of Aadhaar card as a mandatory requirement, various government authorities, both Central and State, continued to

insist upon Aadhaar card as a mandatory condition for providing governmental benefits.

26.11.2013

This Hon'ble Court on being apprised of the continuing violations by the governmental authorities passed another interim order dated 26.11.2013, reiterating its earlier interim order and also impleaded all States and Union territories for effective implementation/enforcement of this Hon'ble Courts interim directions.

24.03.2014

Interestingly, the UIDAI, themselves filed a Special Leave Petition, viz. SLP (Crl) No.2524 of 2014, challenging an order passed by the Bombay High Court requiring them to provide biometric information to CBI for investigation purpose with respect to a criminal trial. This Hon'ble Court vide Order dated 24.03.2014 issued notice in the said SLP and restrained the UIDAI from transferring any biometrics information to any agency without the written consent of the concerned individual. It was further reiterated that Aadhaar should not be made mandatory for availing any service.

11.08.2015

The aforesaid batch of the writ petitions came up for hearing before a Bench of 3 judges of this Hon'ble Court, wherein vide Order dated 11.08.2015 the petitions were referred to a Constitution Bench. However, this Hon'ble Court passed an interim order

directing that "*the production of an Aadhaar Card will not be condition for obtaining any benefits otherwise due to a citizen*".

15.10.2015

Subsequently, a Constitution Bench of this Hon'ble Court passed an Interim Order dated 15.10.2015 and held that,

"5. We will also make it clear that the Aadhaar card scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."

It is pertinent to point out that in spite of the repeated directions passed by this Hon'ble Court to not make Aadhaar card mandatory for availing benefits of any type, various authorities from time to time have continued to flout and disobey the directions of this Hon'ble Court.

16.3.2016

In the above backdrop, the Union of India, introduced the Aadhaar (Targetted Delivery of Financial and other subsidies, benefits and services) Act, 2016 (impugned Aadhaar Act) as a Money Bill in the Budget Session, 2016 in the Lok Sabha. Even though the impugned Aadhaar Act was in pith and substance identical to the earlier NIA Bill, 2009 and sought to create the UIDAI authority, in order to qualify it as a Money Bill, the objects and purpose was stated be in relation to expenditures arising out of the Consolidated Fund of India. Notably, under

section 57 of the impugned Aadhaar Act, the said UID data base shall be available to any private and non governmental authorities to use the same for verification/authentication. Therefore, clearly the scope of the impugned Aadhaar Act is far beyond merely activities relating to expenditure arising out of the Consolidated Fund of India.

However, in spite of, strong objections from the Opposition with regard to the impugned Aadhaar Act being introduced as a Money Bill, the same came to be passed on 16.3.2016.

26.3.2016 The impugned Act received Presidential assent and was published in the official gazette on 26.3.2016.

12.7.2016 Vide Notification dated 12.7.2016 certain provisions of the impugned Act was brought into force w.e.f. 12.7.2016.

The Union of India vide Notification dated 12.7.2016 issued under Section 11 of the Impugned Act, established the 2nd Respondent.

11.08.2016 Hence, the present writ petition is being filed under Article 32 of the Constitution of India, as a public interest litigation seeking a writ of mandamus directing that the impugned Aadhaar Act is ultra vires the Constitution of India and is void and illegal.

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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. OF 2016
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

IN THE MATTER OF :

1. S. G. Vombatkere,
Having address at:
475, 7th Main Road,
Vijay Nagar 1st Stage,
Mysore, Karnataka -570 017.
2. Bezwada Wilson,
C/o Safai Karmachari Andolan,
36/13, Ground Floor, East Patel
Nagar, New Delhi -110008.

...Petitioners

Versus

1. Union of India,
Ministry of Finance,
North Block, New Delhi-110001.
Through the Secretary
2. Unique Identification Authority of
India
A statutory authority established
under the Aadhaar (Targeted
Delivery of Financial and Other
Subsidies, Benefits and Services)
Act, 2016 having its address at :
3rd Floor, Tower-II, Jeevan Bharati
Building, Connaught Circus,
New Delhi-110001.

...Respondents

**WRIT PETITION UNDER ARTICLE 32 OF
THE CONSTITUTION OF INDIA**

TO

THE HON'BLE THE CHIEF JUSTICE OF INDIA.
AND HIS OTHER COMPANION JUSTICES OF THE
HON'BLE THE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE
PETITIONERS ABOVENAMED.

MOST RESPECTFULLY SHEWETH:

1. Nature of the Writ

The Petitioner No.1 is S.G. Vombatkere and the Petitioner No.2 Bezwada Wilson, both citizens of India and residing at Mysore, Karnataka and New Delhi respectively. The present Petition is being filed strictly in the interest of the general public and citizens of India and the Petitioners have no personal interest whatsoever in the same. The Petitioners by the present Petition seek to challenge the provisions of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services), Act, 2016 as being ultra vires the Constitution of India, adversely affecting and harming citizens across the country both individually and collectively. The prayers sought in the present Petition

The Petitioners

1 (a). The 1st Petitioner – S.G. Vombatkere, residing at 475, 7th Main Road Vijaynagar 1st Stage, Mysore - 570017, having telephone number 0821-2515187 and e-mail id sg9kere@live.com, PAN No. ABMPV3365Q is a citizen of India, is aged about 74 years. The 1st Petitioner is a retired Indian Army officer and is engaged in voluntary social work. The annual income of the Petitioner is approximately Rs. 9,00,000/- and the Petitioner has till date, not applied for nor has been issued with a Aadhaar number/Card. In so far as the Unique Identification Project ("UID project") is concerned, the 1st Petitioner has published several articles expressing concerns over privacy and security risks. A resume of the 1st Petitioner's professional work and a copy of the article is annexed hereto and marked as **ANNEXURE-P/1 – (PAGES 79 TO 83)**

1(b). The 2nd Petitioner is a citizen of India, residing at R/o 36/13 Ground Floor, East Patel Nagar, New Delhi, with PAN No. AGMPB6495N, Mobile No. 9311234793 and e-mail ID akandolan@gmail.com and is also engaged in voluntary social work. The annual income of the Petitioner is approximately Rs.

6,00,000/- and the Petitioner has till date, not applied for nor has been issued with a Aadhaar number/Card. He is one of the founders and the National Convenor of the Safai Karmachari Andolan, a human rights organization that has been campaigning for the eradication of manual scavenging and the emancipation of people employed for the purposes of manual scavenging. He was also the convenor of the sub-group on safai karamcharis constituted by the Planning Commission of India. In 2009, he was chosen as the "Ashoka Senior Fellow" of human rights. By virtue of being the founder of Safai Karmachari Andolan, he was also actively involved in a public interest litigation before this Hon'ble Court in Writ Petition (Civil) No. 583 of 2003, Safai Karamchari Andolan and Ors v. Union of India & Ors. The subject matter of that petition is strict implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

- 1(c). The Petitioners herein have filed Civil Writ Petition No. 829 of 2013 (S.G.Vombatkere & Anr. v. Union of India & Ors) relating to the Aadhaar project before enactment of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. Writ Petition No.829 of 2013 is pending before a Constitution Bench of this Hon'ble Court and several interim orders have been passed in that case.
- 1(d). The Petitioner states that no personal interest is involved in the present Petition and the same is being filed strictly as a Public Interest Litigation ("PIL") in the interest of the general public and citizens of India.
- 1(e). The Petitioners are not involved in any civil/criminal/revenue litigation which has/could have a nexus with the issue involved in the present Petition.
- 1(f) The Petitioner herein have, as set out in paragraph 35 herein challenged the UID scheme and inspite express interim directions referred to in paragraph 37 and 38 herein, the authorities/Respondents herein have from time to time continued

to flout and disobey the directions of this Hon'ble Court. The Union of India has enacted Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, which would render the interim orders of this Hon'ble Court nugatory. In the circumstances, no useful purpose being served by moving the concerned Government Authorities for relief, the Petitioners have approached this Hon'ble Court by the present writ petition.

The Respondents

2(a). The 1st Respondent is the Union of India.

2(b). The 2nd Respondent is the Unique Identification Authority of India (UIDAI), a statutory authority established under Section 11 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereinafter, 'the impugned Act'). It was initially established under an executive notification dated 28.01.2009 and thereafter brought under the 2016 statute.

1. The Respondents are amenable to the writ jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India. The Respondents are "State" within the meaning of Article 12 of the Constitution of India.
4. The writ Petitioners had earlier filed a writ petition being Civil Writ Petition No. 829 of 2013 (S.G. Vombatkere & Anr v. Union of India & Ors) challenging the Aadhaar project as being unconstitutional on diverse grounds. This petition together with other connected cases is pending before a Constitution Bench of this Hon'ble Court. A copy of the order dated 11.8.2015 referring the previous petition together with other connected cases to a Constitution Bench is annexed hereto and marked as **ANNEXURE P/2 – (PAGES 84 TO 108)**. The Constitution Bench has passed an interim order on 15.10.2015, a copy whereof is annexed hereto and marked as **ANNEXURE - P/3 – (PAGES 109 TO 121)**.
6. In this backdrop, since there is an overlap with respect to the issues involved in the present writ petition and the previous batch

of writ petitions, it is respectfully submitted that notice/rule be issued in the present writ petition and the matter tagged to the cases pending before the Constitution Bench. This course of action is necessary and desirable to adjudicate upon all the issues in controversy and render complete justice.

7. Extensive documents concerning the Aadhaar project have already been filed by the present writ Petitioners in their previous petition and are part of the record of this Court. The Petitioners crave leave to refer to and rely upon the pleadings, annexures and record in their previous writ petition. 'Convenience compilations' of documents have been prepared for the benefit of the Court in the previous cases. In the circumstances, so as to save paper and not needlessly burden the record, the Petitioners are advised not to file further sets of documents with this petition at this stage, but will do so if directed by this Hon'ble Court.
8. The present writ petition may be treated as complementary to the previous writ petition and the averments, grounds and submissions set out in the previous writ petition may be treated as being part of this writ petition. This request is made in the interest of brevity and since the challenge in this writ petition builds upon grounds set out in the previous writ petition.
- 9(a). The present petition is being filed as a public interest litigation. The Aadhaar (Targeted Delivery Of Financial And other Subsidies, Benefits And Services) Act, 2016, unless set aside as being ultra vires the Constitution of India, will adversely affect and harm citizens across the country, individually and collectively. The Petitioners are approaching this Hon'ble Court bona fide to prevent the violation of basic human rights that have already occurred as a result of the UID project and which violations will escalate in the future unless checked by this Hon'ble Court. Unless the relief sought is granted, a further loss of thousands of crores of rupees in addition to the funds already wasted will continue to be caused to the public exchequer. Moreover, the Aachaar (Targeted Delivery

Of Financial And other Subsidies, Benefits And Services) Act will severely dent the national security of the country.

- 9(b). The Petitioners have not filed any other petition challenging the impugned Act. However, as set out above, the Petitioners have challenged the Aadhaar project in their previous writ petition (before enactment of the new law impugned herein).
10. This petition challenges the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (the impugned Act) inasmuch as it violates and threatens to violate the fundamental rights of the Petitioners and other citizens of India. The impugned Act, in particular, violates the fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India.
11. The Petitioners, inter alia, seek appropriate declarations to the effect that the impugned Act is ultra vires the Constitution of India. Should this Court uphold the validity of the impugned Act, the Petitioners urge an alternative case directed against specific provisions of the impugned Act and seek appropriate declarations with respect to the unconstitutionality of these provisions. The Petitioners seek appropriate declarations regarding their fundamental right to informational self-determination being a facet of Article 21 of the Constitution. Furthermore, the Petitioners seek appropriate writs, orders and directions with respect to the collection, retention, destruction and use of biometric and demographic information and data of the citizenry under the direct or indirect control of Respondents or which has been gathered by the Respondents or third party enrollers pursuant to the Aadhaar project.

12. The impugned Act was published in the Gazette of India on 26.03.2016 and certain provisions were brought into force on 12.7.2016. The 2nd Respondent was established as a statutory authority on 12.7.2016. A copy of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 along with the Notifications dated 26.03.2016 bring the impugned Act into force is annexed hereto and marked as ANNEXURE-P/4-(PAGES 122 TO 139).

13(a). In September, 2010 the UIDAI (then a non-statutory department of government) launched a programme popularly known as the Aadhaar project.

13(b). The Aadhaar project involved the assignment of a random 12 digit unique number to all residents in India, whether citizen or not.

13(c). Although, there was no statutory or administrative authority to do so, UIDAI in its previous avatar, for nearly 5 ½ years between September 2010 and 2016, through a network of private parties collected biometric and demographic information from enrollees.

13(d). The personal biometric information collected comprised (i) a facial photograph of the individual; (ii) all ten finger prints; and (iii) a scan of both the iris. The demographic information collected varied but generally included fields of information such as address, date of birth, information regarding bank

account, mobile number, email address, parents' name and the parents' Aadhaar numbers.

13(e). Enrollees were made to part with biometric and demographic information to private parties engaged in enrolment without securing the enrollees' written consent, much less informed consent. No government official was involved in the enrolment process and none was present to supervise or oversee the process of enrolment.

13(f) Enrollers were (and are) encouraged to maximize enrolment through a fiscal/monetary incentive: The enroller receives payment for every fresh enrolment that is 'de-duplicated' or verified by UIDAI.

13(g) There was and is no governmental supervision or control over demographic information and documents collected by private party enrollers from individual enrollees and these enroller were and are free to utilize the demographic information for commercial gain. There is also no effective or realistic control or supervision that the Respondents exercise over the encryption, storage and de-duplication process inasmuch as this entire process is controlled by third party foreign contractors who exercise proprietary rights over the technology and do not disclose or share their secret technology with the Union of India or UIDAI.

13(h) The private party enrollers were and are required to transmit biometric and certain demographic information to UIDAI which

stores this information at a Central Identities Data Repository ('CIDR').

13(i). The information collected was and is stored by UIDAI on computers that employ 3rd party proprietary biometric technology systems that are not owned by the Respondents but are owned and controlled by foreign corporations associated with foreign governments and their defence/intelligence wings.

13(j). The Aadhaar project was assailed in writ petitions filed before this Court as well as in certain High Courts on diverse grounds including the lack of any statutory sanction to back the exercise. (These cases are now pending before a Constitution Bench of this Court.)

13(k). The impugned Act seeks to provide a veneer of authority to the Aadhaar project. However, as set out hereafter the Act is ultra vires and unconstitutional and the project itself liable to be declared illegal and violative of Fundamental Rights and the Constitution of India. Parliament has no legislative competence enact the impugned Act.

14. Why is the impugned Act unconstitutional and what is it about the Aadhaar project that violates fundamental constitutional norms inherent in a democracy? There are numerous specific grounds set out later in this petition. The next few paragraphs outline the big picture.

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. 5 OF 2017
IN
CIVIL WRIT PETITION NO. 797 OF 2016**

IN THE MATTER OF:

S. G. VOMBATKERE & ANR.

...PETITIONERS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

AN APPLICATION FOR APPROPRIATE DIRECTIONS

PAPER BOOK

(FOR INDEX : PLEASE SEE INSIDE)

ADVOCATES FOR THE PETITIONERS: M/S. K.J. JOHN & CO.

15. The Constitution of India like other constitutions that set out the basic law for democratic governance, employs an array of checks and balances to ensure open, accountable government where each wing of the government performs its actions for the benefit of the people and within its sphere of responsibility. The checks and balances are many and amongst them are the respective roles assigned by the Constitution to the legislature, the executive and the judiciary. Under India's federal structure, with a distribution of legislative authority between the Union government and the States, the fields of legislation and corresponding executive authority are also distributed between the Union and the States. Provisions in the Constitution such as the fundamental rights chapter (Part III) and the chapter relating to inter-state trade (Part XIII) also circumscribe the authority of the State. These limitations on the power of the State support the notion of 'limited government'. In this sense, the expression 'limited government' would mean that each wing of government is restricted by provisions of the Constitution and other laws and is required to operate within its legitimate sphere. Exceeding these limits would render the action of the State ultra vires the Constitution or a particular law.
16. The concept of 'limited government' may also be understood in a much broader and different sense. This notion of a limited government is qua the citizenry as a whole. There are certain things that the State simply cannot do, because the action fundamentally alters the relationship between the citizen and

the State. The wholesale collection of biometric data including finger prints and storing it at a central depository per se puts the State in an extremely dominant position in relation to the individual citizen. Biometric data belongs to the concerned individual and the State cannot collect or retain it to be used against the individual or to his or her prejudice in the future. Further the State cannot put itself in a position where it can track an individual and engage in surveillance. The State cannot deprive or withhold the enjoyment of rights and entitlements by an individual or make such entitlements conditional on a citizen parting with her biometrics.

17. It is the people of India who declared in the Preamble: -

'We the people of India. . . In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution'.

The Constitution of India is a compact between the people of India and the State. The essence of this compact as evident from the Preamble to the Constitution is that Indian society and the Indian nation would foster justice, liberty, equality and fraternity in the widest sense. The notion of limited government here would mean that every individual citizen and the citizenry collectively are entitled to live, work, and enjoy their varied lives without being under the continuous gaze of the State. Citizens of India enjoy a full and rich raft of rights against the State which are drawn from the common law, statutes, the

Constitution and a higher order in the form of the 'basic structure of the Constitution'. Every citizen is entitled to secure an education, hold property, engage in social and cultural activity, travel, pursue vocations, recreations and a myriad other activities without the state knowing about his or her every move or maintaining a centralized record of these activities. A citizen is entitled to enjoy all these rights including social and civil rights such as the right to receive an education, a scholarship, medical assistance, pensions and benefits under government schemes without having to part with his or her personal biometrics. An individual's biometrics such as finger prints and iris scan are the property and entitlement of that individual and the State cannot coerce an individual or direct him or her to part with biometrics as a condition for the exercise of rights or the enjoyment of entitlements. Every citizen has a basic right to informational self-determination and the state cannot exercise dominion over a citizen's proprietary information either in individual cases or collectively so as to place itself in a position where it can aggregate information and create detailed profiles of individuals or facilitate this process. The Constitution of India is not a charter for a Police State which permits the State to maintain cradle to grave records of the citizenry.

18. No democratic country in the world has devised a system similar to Aadhaar which operates like an electronic leash to tether every citizen from cradle to grave.

19. There are several other patent flaws with respect to the impugned Act and the Aadhaar project. One of the most striking illegalities is the manner in which the impugned Act came to be passed as a Money Bill without having to secure passage through the Rajya Sabha. The impugned Act cannot in law be characterized as a Money Bill and the impugned Act is stillborn inasmuch as the mandatory legislative process has not been followed. At the time when the Bill was passed on 11.03.2016 by the Lok Sabha the attendance was merely 73 persons out of a Lok Sabha House strength of 543 members. Moreover, when the Rajya Sabha returned the Bill with suggestions/amendments, these came to be considered by the Lok Sabha on 16.03.2016 when none of the amendments /suggestions were accepted. Apart from there being no adequate debate or discussion despite the serious and severe impact of the Bill on civil liberties; the illegalities that renders the Act unconstitutional and ultra vires is its mischaracterization as a Money Bill and the failure to adhere to the constitutional legislative process.
20. As explained in detail in the grounds, biometrics as a technology is unreliable and as applied by the Respondents is serving as an instrument of exclusion depriving persons who are otherwise entitled to financial and other subsidies, benefits and services from receiving these entitlements. Going by the stand of UIDAI itself, the number of cases where de-duplication resulted in the rejection of an application for an Aadhaar

number is to the tune of 9 crores out of around 100 crore enrolments. The number 9 crores is just a little less than the population of the State of Bihar and twice the population of Odisha (as per the 2011 census). This shows that every 10th person is not being issued an Aadhaar number (though applied for) because of the flawed biometric technology being used. Further, one study using official data shows that the proportion of "false positives" i.e. duplicates being shown erroneously is unacceptably high, resulting in exclusion of those entitled to benefits. This study suggests that 1/121 is the proportion of false positives by a conservative estimate. This ratio is strongly indicative of the programme excluding individuals who should otherwise receive their entitlements.

21. The accuracy of biometrics is highly doubtful for a variety of reasons: A person's biometrics change over time; for persons who are engaged in manual labour and also persons who are aged, etc. ridges on the fingers smoothen out and cannot be captured effectively by biometric devices; and there is no safeguard at the crucial point of capturing the biometric that ensures the integrity of the process at the stage of enrolment.
22. The impugned Act is designed to facilitate and encourage private sector operators to create applications that depend upon the Aadhaar data base for the purposes of authentication/verification. This would mean that non-governmental, private sector entities such as banks, employers, any point of payment, taxi services, airlines, colleges, schools,

movie theatres, clubs, service providers, travel companies, etc. will all utilise the Aadhaar data base and may also insist upon an Aadhaar number or Aadhaar authentication. This would mean that at every stage in an individual's daily activity his or her presence could be traced to a location in real time.

23. One of the purposes of Aadhaar as projected by the Respondents is that it will be a single point verification for KYC (Know Your Customer). This is permissible and indeed contemplated by the impugned Act. Given the very poor quality of scrutiny of documents by private enrollers and enrolment agencies (without any governmental supervision) means that the more rigorous KYC process at present being employed by banks and other financial institutions will yield to a system which depends on a much weaker data base. This would eventually imperil the integrity of the financial system and also threaten the economic sovereignty of the nation as explained more fully in the grounds.
24. One of the dangers of centralized data bases that are connected to the internet is that the information stored on these computers can be hacked and illegally accessed so as to steal the information. Identity theft enables third parties to utilize biometric and demographic information stolen and enables these parties to electronically impersonate persons while accessing data that is most sensitive or important for an individual. Some of the extensively reported and documented cases of identity theft involve

a) For instance, in Brazil, it has been reported that a doctor 'used silicone fingers' to sign in for absent colleagues ostensibly to game a biometrics based attendance system.

b) It has been reported that a hacker faked a German minister's fingerprints using high resolution photos of her hands.

c) The FBI misidentified one Mr. Mayfield as the culprit in the Madrid Bombing Case incorrectly matching his fingerprints against the suspect's and Mr. Mayfield later won a civil suit against the FBI in 2006 for the same.

d) In Hyderabad, an applicant fraudulently obtained a State Minority Finance Corporation loan by using another's Aadhaar number and the latter was able to know of the same when his own loans were rejected.

25. Even assuming that the biometrics such as the finger print is unique, the nature of human and societal interactions is such that individuals leave traces of their finger prints on several media in the course of a day. These finger prints can be easily lifted and misused for identity theft. This is quite apart from the Respondents themselves or some agencies of government misusing core biometrics and planting these biometrics to create a false presence or false interactions by an individual. This type of impersonation is facilitated by the impugned Act rendering it patently unconstitutional.

26. The impugned Act does not serve as an identity as incorrectly projected by the Respondents but serves as a method of identification. Every citizen-state and citizen -service provider interaction requiring identification is sought to be captured and

retained by the government at a central base and a whole ecology developed that would require reference to this central data base on multiple occasions in course of the day. In other words, the impugned Act impermissibly creates the foundation for real time, continuous and pervasive identification of citizens in breach of the freedoms guaranteed under the Constitution.

Brief Facts

27. The Union of India through the Planning Commission issued a Notification dated 28.01.2009, constituting the Unique Identification Authority of India (UIDAI) Act for the purpose of implementing of Unique Identity (UID) scheme wherein a UID data base was to be collected from the residents of India. Notably, there was no mention of collection of biometric information in the said notification. Furthermore the notification did not provide any checks and balance with regard to the collection, storage, usage of the said information collected pursuant to the UID scheme. Copy of the Notification No. A-43011/02/2009-Admm.I dated 28.01.2009 issued by the Planning Commission is filed herewith and marked as **ANNEXURE - P/5 - (PAGES 140 TO 162).**

28. Pursuant to the said Notification the Government of India appointed Shri Nandan Nilekani as the Chairman of the UIDAI on 02.07.2009. The UID scheme contemplated that an Aadhaar number which is random 12 digit number which is unique to all residents of India, be issued to the applicant. This Aadhaar

number was generated after collecting the biometric information i.e. finger prints and iris scan, along with demographic information about the individual.

29. The scheme was launched in September, 2010 in the rural areas of Maharashtra. Thereafter it has extended all over India. Approximately, 100 crore individuals have been enrolled under the UID scheme till date. Although Aadhaar was supposed to be voluntary, the government has carried out a concerted and sustained campaign to make the enrolment into the UID scheme virtually mandatory. This was done by various offices across the country insisting upon the Aadhaar number for the purposes of providing a service even where alternative methods of identification were available.
30. When the programme was launched in September, 2010 there was no statutory backing for the same. On 03.12.2010, the Union of India introduced the National Identification Authority of India Bill 2010 (NIA Bill) in Parliament. The NIA Bill was very similar to the impugned Aadhaar Act, 2016.
31. The said NIA Bill was referred to the Parliamentary Standing Committee on Finance. The Standing Committee gave its report on 13.12.2011, wherein it found several fallacies/lacunas in the NIA Bill. Certain specific objections raised by the standing committee pertained to:
 - (i) Privacy issues,
 - (ii) Protection of the sensitive biometric information,

- (iii) Private parties' involvement in the collection of the biometric information,
- (iv) Lack of appropriate technology in India to sustain such a project,
- (v) Possibility of fake Aadhaar numbers being generated due to the inadequate verification system under the UID scheme.

Copy of the Report dated 13.12.2011 placed by the standing committee on Finance before the Parliament is filed herewith and marked as ANNEXURE - P/6 - (PAGES 163 TO 197).

32. In spite of the Standing Committee Report, the Government of India failed to correct/cure defects in the UID scheme. The NIA Bill never got passed, and the UID scheme continued to operate without any statutory basis or backing. Private enrollers continued to collect private biometric and demographic information from the citizens under the UID scheme without any authority in law. No written consent, much less informed consent was taken from the individuals who were made to part with their private information. There is no mention in the application forms specifying the biometrics to be captured. Neither was there any information in the application forms regarding the potential use of the said biometric information by the government, nor was there any general public awareness programme carried out by the government to explain the UID programme to the citizens. True copies of the

enrolment/application forms used by UIDAI are annexed hereto and marked as ANNEXURE - P/7 - (PAGES 198 TO 201).

33. The collection/enrolment centres were run by private parties. There was absolutely no government presence in any of the enrolment centres. There were no Government personnel present in these centres where the individuals were made to part with their personal biometric information. The UID programme was operated on the basis of MoUs of doubtful legality between UIDAI and the registrars.

34. The Respondents do not possess the requisite technology for implementing the core biometric identification system. In fact, under the 2009 Notification regime, the UIDAI had entered into arrangements with three consortia, to implement the core biometric identification system in support of the Aadhaar project. These consortias were entrusted with the task of designing, supplying, commissioning, maintaining and supporting the Biometric Identification System. The leaders of these three consortias are:- (i) Accenture; (ii) Mahindra Satyam & Morpho joint venture, and (iii) L1-Identity Solutions.

L1 Identity Solutions is a large American Defence Contractor based in Connecticut, specializing in biometric technology system. Several of its officers and directors have served with the Central Intelligence Agency (CIA) and other American Defence organisation. The former director of CIA, Mr. George Tenet, is on the Board of Directors of L1 Identity Solutions. L1

Identity Solutions has various contractual relationships with US Department of Defence and other intelligence agencies. This is relevant to note, inasmuch as the biometric information of an Indian resident/citizen can be easily transmitted to foreign government, thereby potentially impacting India's sovereignty, national security and severely undermine the privacy and autonomy of the individuals. True Copy of the relevant excerpts of the Agreement dated 24.8.2010 between the Respondents and M/s L1 Identity Solutions Operating Company Private Limited is annexed hereto and marked as **ANNEXURE - P/8**

- (PAGES 202 TO 212)

35. Aggrieved by the violation of fundamental rights of the citizens of India, several of PILs were filed before this Hon'ble Court and in High Courts. The lead petition before this Hon'ble Court was Justice K. S. Puttaswamy (Retd) v. Union of India & Ors., W.P. (C) No.494/2012. This Hon'ble Court vide order dated 30.11.2012 issued notice in the said petition. The present Petitioners had also filed a PIL titled S. G. Vombatkere & Anr. v. Union of India & Ors., W.P. (C) No. 829/2013. This Hon'ble Court vide order dated 23.09.2013 issued notice in the writ petition, and tagged it along with Writ Petition No. 494/2012.
36. This Hon'ble Court on being apprised of the unconstitutional nature of the UID scheme and the gross abuse by the government in refusing essential benefits /services to the citizens if they did not possess an Aadhaar Card, passed an

Interim Order dated 23.09.2013 where it directed that the Aadhaar card should not be made mandatory for providing governmental benefits. True copy of the order dated 23.09.2013 passed by this Hon'ble Court in W.P. (C) No.494/2012 is annexed hereto and marked as **ANNEXURE - P/9 - (PAGES 213 TO 214)**.

37. In spite of the express direction by this Hon'ble Court to not make the use of Aadhaar card as a mandatory requirement, various government authorities, both Central and State, continued to insist upon Aadhaar card as a mandatory condition for providing services and/or benefits.

38. This Hon'ble Court, on being apprised of the continuing violations by the governmental authorities passed another interim order dated 26.11.2013, reiterating its earlier interim order and also impleaded all States and Union territories for effective implementation/enforcement of this Hon'ble Courts interim directions. True copy of the order dated 26.11.2013 passed by this Hon'ble Court in W.P. (C) No.494/2012 is annexed hereto and marked as **ANNEXURE - P/10 - (PAGES 215 TO 217)**.

39. The UIDAI, themselves filed a Special Leave Petition, viz. SLP (Crl) No.2524 of 2014, challenging an order passed by the Bombay High Court requiring them to provide biometric information to CBI for investigation purpose with respect to a criminal trial. This Hon'ble Court vice order dated 24.03.2014

issued notice in the said SLP and restrained the UIDAI from transferring any biometrics information to any agency without the written consent of the concerned individual. It was further reiterated that Aadhaar should not be made mandatory for availing any service. Copy of the order dated 24.03.2014 passed by this Hon'ble Court in SLP (Crl.) No.2524/2014 is annexed hereto and marked as ANNEXURE - P/11 -
(PAGES 218 TO 219).

40. The aforesaid batch of the writ petitions came up for hearing before a Bench of 3 judges of this Hon'ble Court, wherein vide order dated 11.08.2015 the petitions were referred to a Constitution Bench. However, this Hon'ble Court passed an interim order directing that "The production of an Aadhaar Card will not be condition for obtaining any benefits otherwise due to a citizen".
41. Subsequently, a Constitution Bench of this Hon'ble Court passed an Interim Order dated 15.10.2015 and held that,

"5. We will also make it clear that the Aadhaar card scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."
42. In spite of the repeated directions passed by this Hon'ble Court to not make Aadhaar card mandatory for availing benefits of any type, various authorities from time to time have continued to flout and disobey the directions of this Hon'ble Court.
43. In the above backdrop, the Union of India, introduced the Aadhaar (Targetted Delivery of Financial and other Subsidies,

Benefits and Services) Act, 2016 as a Money Bill in the Budget Session, 2016 in the Lok Sabha.

44. Even though the impugned Aadhaar Act was similar to the earlier NIA Bill, 2009 and sought to create the UIDAI authority, in order to qualify it as a Money Bill, the objects and purpose was stated be in relation to expenditures arising out of the Consolidated Fund of India. Notably, under section 57 of the impugned Aadhaar Act, the said UID data base shall be available to any private and non governmental authorities to use the same for verification/authentication. Clearly the scope of the impugned Act is far beyond merely activities relating to expenditure arising out of the Consolidated Fund of India.
45. To support their case and explain the working of the Aadhaar project, the Petitioners will refer to and rely upon material forming part of the record of this Court in the previous petition filed by them and the connected cases that are at present pending before a Constitution Bench. Moreover, to buttress their submissions in support of their case, the Petitioners have obtained affidavits/reports copies whereof are appended to this petition:
- a) Copy of a Technical report/affidavit dated 06.04.2016 prepared by Mr. Samir Kelekar is annexed herewith and marked as ANNEXURE - P/12 - (PAGES 219 TO 226)
 - b) Copy of Affidavit dated 01.08.2015 submitted by Boomi Regina, Copy of Affidavit dated 02.08.2015 submitted by Dr.

Jean, Copy of Affidavit dated 04.08.2015 submitted by Inder Singh, Copy of Affidavit dated 05.10.2015 submitted by Devta Deen and Copy of Affidavit dated 05.10.2015 submitted by Sanjay, who have been refused/denied services on the basis of Aadhaar annexed herewith and marked as ANNEXURE - P/13 (PAGES 227 TO 229), ANNEXURE - P/14 (PAGES 230 TO 232), ANNEXURE - P/15 (PAGES 233 TO 236), ANNEXURE - P/16 (PAGES 237 TO 240), ANNEXURE - P/17 (PAGES 241 TO 244).

- f) Copy of the Report/Affidavit prepared by Mr. Nikhil Dey regarding the failure of the Aadhaar system in the state of Rajasthan is annexed herewith and marked as ANNEXURE - P/18 - (PAGES 245 TO 257)

GROUND

The Petitioners submit that the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 is ultra vires illegal, null and void on the following amongst other grounds which are set out hereafter and are without prejudice to one another. The grounds and pleadings in previous Writ Petition (Civil) No. 829 of 2013 filed by these Petitioners may also be treated as grounds herein. The grounds set out below also support the declarations, directions and orders sought for by the Petitioners and each of them, as well, may be treated in the alternative and without prejudice to one another: -

- A. An individual's biometrics, specifically finger prints and iris scan (which are covered by the definition of 'core biometric information' contained in section 2(j) of the impugned Act) are the personal property of that individual. Biometrics such as finger prints and iris scan are images or impressions of the physical body of a person and are part of his or her bodily integrity. Finger prints and iris scan are extensions of a person's body and no one can take these impression or images without impacting the bodily integrity of the individual. Any taking of an individual's fingerprints and iris scan without his or her express informed consent in writing amounts to a physical invasion and assault to his or her body.

Personal bodily integrity is guaranteed under Article 21 of the Constitution of India and each person has a fundamental right to self determine as to what he or she would like to do with his or her body and images and impressions such as finger prints and iris scan that are biometric impressions of a body. The Petitioners submit that biometric information relating to a person is owned by that person alone and no third party specifically the State can force or coerce or compel a person to part with core biometric information save and except in extremely narrow or limited exceptional circumstances such as where a convicted individual is serving time in prison.

The ostensible purpose of the impugned Act is to target financial and other subsidies, benefit and services relating to expenditure incurred by the State from the Consolidated Fund

of India to individual residents. It is respectfully submitted that the responsibility and duties of the State covered by Part IV of the Constitution of India entitled Directive Principles of State Policy oblige the State to conduct its affairs consistent with the policy prescriptions set out in Part IV. Articles 39, 39A, 41, 42, 45, 46, 47 contain provisions that cover the constitutional obligations of the State to extend financial and other subsidies, benefits and services to citizens. Moreover, some of the directive principles have subsequently been engrafted as constitutional rights such as the right to education guaranteed under Article 21A of the Constitution of India as well as statutory rights in terms of the National Food Security Act, 2013 and National Rural Employment Guarantee Act, 2005.

It is respectfully submitted that it is constitutionally impermissible for the State to make the discharge of its constitutional and statutory obligations conditional upon an individual parting with his or her core biometrics. The constitutional and statutory obligations exist irrespective of whether or not a person seeks to protect his or her biological/bodily integrity and personhood by refusing to part with biometric information.

In other words, the State cannot compel a person to part with biometrics as a condition precedent for discharge of the State's constitutional and statutory obligations. The impugned Act inasmuch as it foists a Faustian Bargain on every citizen and

resident is unconstitutional and deeply flawed at its very foundation.

- B. The State's obligation to provide financial and other benefits, subsidies and services extends to a class of citizens or residents based upon certain objective criteria such as household income, gender, age, disability, etc. Persons falling within this group, for short "entitled persons" form a single homogenous class. Each one of them is entitled to one or more benefits in the form of financial subsidies, services, scholarships, etc. Whether or not an individual parts with his or her core biometric information to avail the entitlements is completely irrelevant to his or her receiving the entitlement which is based on objective criteria. The impugned Act is palpably arbitrary and illegal inasmuch as it creates an artificial impermissible classification between those entitled persons who have parted with biometrics and those entitled persons who have not parted with biometrics. Differently put, the impugned Act creates an artificial difference between those entitled persons who hold an Aadhaar number and those who do not with the latter group being deprived of their entitlements in law.

The object of receiving financial and other subsidies, benefits and services is to advance constitutional, statutory and moral obligations of the State. The parting of biometrics and/or the issuance of an Aadhaar number has no rational nexus to the objects of delivering financial and other subsidies, benefits and services. The impugned Act is clearly violative of Article 14 of

the Constitution of India inasmuch as it creates a wrongful classification amongst a homogeneous group of entitled persons and this artificial classification also has no rational nexus to the objects of the constitutional and statutory obligations contained in the Directive Principles of the State Policy, fundamental rights chapter and statutes and programmes with respect to financial subsidies, benefits and services.

- C. Under the Constitution of India the State has a limited role. Aspects of the doctrine of limited government have been explained in the earlier part of this petition. There are two facets that the Petitioners seek to emphasize here. The first facet is that the State cannot place itself in a position whereby it collects information over the lifetime of a citizen or resident and is in a position to dominate that individual on the basis of the profile of the individual now known to the State. The second facet of the constitutional role of the State is that it is a benign and benevolent State and not a police or authoritarian State. This aspect of a benevolent State is clearly derived from the Independence movement, the constitutional history leading to the framing and adoption of the Constitution of India and the preamble of the Constitution by which the People of India have given themselves the Constitution. A direct obligation on the State that flows from this is that the State must act in recognition of its limited role and is under an active constitutional duty to preserve and protect the fundamental

rights of the citizens. This implies that the State cannot enact a law or create a system in the form of the Aadhaar project which by design and operation will place the State in an extremely dominant position in relation to every citizen.

The impugned Act seeks to sanctify the Aadhaar project. Even when interpreted narrowly, the scope of the Act extends to every "benefit", "service" and "subsidy" defined in sections 2(f), 2(w) and 2(x) of the impugned Act. The scope of these expressions even at their narrowest will cover an individual's life virtually from birth till death. For example, the Aadhaar project is issuing numbers to new born children immediately upon registration of birth, frequently in conjunction with the hospital or maternity facilities. There are several situations where a new born child or the mother may be in need of the benefit or service which would be covered by the scope of these expressions in the impugned Act. Later, children would be entitled to benefits for food, education, scholarships, health interventions, etc. and in each of these situations, the impugned Act envisages authentication through the Aadhaar system. As a person attains adulthood and his or her societal interactions increase, the number of occasions for receiving benefits, services and subsidies may likely increase -- for example every payment of salary or pension or indeed attendance at a government work place may require Aadhaar authentication.

The Central Identities Data Repository (CIDR) that conducts authentication will electronically retain a record of every such authentication in respect of every residents obtaining government benefits or availing service or subsidy. In this manner, the State is empowered by the Act to collect information of an individual over the course of his or her lifetime. It is respectfully submitted that this centralized collection of information completely alters the relationship between citizen and State. This not only destroys the privacy of an individual with respect to his or her personal activities but it also places the State in a position whereby merely on the basis of aggregate authentication records it can build an entire profile of the individual, community and segment of the citizenry. The impugned Act inasmuch as it enables lifetime records of every individual to be maintained at a centralized data base is destructive of personal freedoms and allows the State to dominate over the people of India.

- D. The Constitution of India, specifically Articles 14, 19, 20 and 21 proscribe the creation of a surveillance State. The Constitution does not allow any system or programme to be implemented by the State that results in en masse surveillance. The State is under an obligation under Article 13(2) of the Constitution of India to ensure that it shall not make any law which takes away or abridges the rights conferred under Part III of the Constitution of India. Nevertheless, the impugned Act purports to provide legal sanction to a programme that lays the

framework for real time surveillance and that enables surveillance of every Indian.

It is respectfully submitted that the constitutional limitations are such that the Government of India cannot engage in surveillance of Indian citizens even where each of these citizens volunteers to be subject to surveillance.

Simply stated, the biometric capture and authentication procedure operates in the following manner:

- i) Each and every electronic device that is linked to the internet has a unique identification. This is similar to a vehicle registration number or a cellular telephone number or a cheque number which makes that item uniquely identifiable.
- ii) In addition to this generic "unique identification", when an electronic device is linked to the Aadhaar system /server /CIDR, the devices electronically exchange information and at this stage the Aadhaar system will designate a unique identification number to a particular device which is called its registered device ID. This registered device ID is designed to be the permanent ID in respect of that device qua Aadhaar. Illustratively, if a finger print is being read by a particular authentication device and this authentication device is linked to the Aadhaar System, Aadhaar will designate a specific ID to that device at the first interaction and thereafter

whenever that device is linked to Aadhaar, the transmission will be recognized as emanating from that device.

- iii) The transmission between the external device (now with its registered device ID) and the Aadhaar server will be carried on a network comprising wire, as well as wireless systems. Regardless of whether the message is being transmitted through the medium of wire or wireless, a unique electronic path attaches to each transmission. This unique electronic path identifies the links through which the message is transmitted and each of these links is uniquely identifiable.
- iv) In other words, in a transmission between a registered device (e.g. finger print reader) and the CIDR it is technically possible to track and trace the electronic route taken by every transmission. This implies that it is possible to electronically track down the location of every registered device in real time. This is because the Respondents themselves project that the authentication transaction comprising a cycle of request and response can be completed in as little as 3 to 5 seconds.
- v) Hypothetically, in a situation where Aadhaar authentication is required at the stage of say withdrawing money from an ATM, clocking in at a government office and receiving an LPG cylinder would

mean that each of these stages the physical location as well as the broad nature of the transaction would be known to the Respondents or would be easily discernible by the Respondents.

This explanation/illustration is irrefutable and clearly brings out the nature of a surveillance state sanctioned by the impugned Act. The manner in which the Aadhaar CIDR is able to provide authentication and deliver its confirmation/refusal to a particular device is because the electronic path and the terminal device is identifiable and can be easily traced back.

Moreover, consistent with the vision of the Respondents, their spokespersons as well as private entrepreneurs who have expressed an interest in using the Aadhaar platform, the extent and pervasiveness of the surveillance over time will deepen. This is sanctioned by section 57 of the impugned Act.

The upshot is that as a result of the impugned Act being allowed to stand, the State will have a capacity to very easily track down and trace the physical location of every individual seeking authentication with reasonable accuracy and will also have the capacity to assess the broad nature of the activity the person is engaged in. It is respectfully submitted that the affidavits and reports of technically qualified persons appended to this petition establish how the impugned Act provides a framework for an Authoritarian Police State. The impugned Act will lead to the garrotting of civil liberties.

- E. Intimately related to the fundamental principle that a person has full dominion and control over her core biometrics -- just as she has over her body and personal autonomy, any collection of personal biometrics can only be done through free and informed written consent on the part of the individual. Here, the Respondents claim that nearly 100 crore persons have been enrolled and issued Aadhaar numbers. The impugned Act purports to validate actions taken prior to bringing into force of the Act in terms of section 59 of the impugned Act.

It is respectfully submitted that no consent whatsoever was taken for any of the enrolments carried out until the bringing into force of the impugned Act. The forms utilized by the private enrolment agencies as prescribed by UIDAI do not even purport to convey consent for either capture or use of biometric information. They do not specify the biometric information being captured. There is no contemporaneous video record of any counselling carried out explaining to the individual the effect and consequences of parting with biometrics or the use to which the biometrics may be put. There is no government official present or any method of objectively assessing the fairness of the consent process (assuming there was one) at the stage of enrolment. In the circumstances, it is respectfully submitted that absent any free consent, much less free informed written consent, given the sensitive nature of the biometric information, the entire collection and record of UIDAI prior to the impugned enactment amounts to wrongful

deprivation of the most intimate personal property of individuals. Indeed, the taking of a person's fingerprints and iris scan without informed consent is a physical invasion of his or her bodily integrity. The Respondents have no authority to retain biometrics illegally obtained. All these records are liable to be destroyed and a certification to that effect issued by the Respondents to the satisfaction of this Court.

The element of free consent is not addressed or adequately protected in the impugned Act even with respect to enrolments subsequent to bringing into force of this Act. The primary reason for this is that the biometric information sought to be taken from an individual is his or her most valuable or precious information. This biometric information can be hacked and stolen from the CIDR as has happened the world over from several highly sensitive protected data repositories. Where centralized biometric data is stolen, the identity of a person is severely compromised because the wrongdoer coming to access this information can impersonate the real individual without the system detecting any mischief. Further, the core biometrics stored in the CIDR may be accessed and planted either with or without the connivance of the Respondents and with no reasonable or realistic manner of the individual being able to disprove the misuse of the biometric information and the planting of say a finger print at a particular location.

The biometric information is extremely sensitive and without prejudice to the Petitioners' contention that the Respondents

have no authority in law to en masse collect biometrics of the citizenry, at a minimum, this information is imprest with trust. The Respondents while engaging in the exercise of collecting biometrics act as trustees at every stage. This role of a trustee, given the sensitive nature of the information must be exercised by the State or organs of the State alone and cannot under any circumstances be delegated to private parties operating without any governmental supervision. The crucial stage of obtaining consent/informed consent is entirely in the hands of private players even under the impugned Act. Obtaining free consent from a citizen or resident by which he or she agrees to part with his or her biometrics is a non-delegable fiduciary exercise under the Constitution of India (assuming it is permissible at all). There is no manner whatsoever of the State satisfying itself that free and informed consent was secured and in the event of a dispute in this regard there is no manner of verifying the existence and nature of the consent. In the circumstances, the Petitioners submit that the impugned Act is unconstitutional since even with respect to prospective collection and use of biometric data it does not contain adequate safeguards and does not mandate the conduct of the consent procedure by the State itself.

- F. The notion of "informed consent" is a much more profound and elaborate concept than mere paper consent. This concept of informed consent has to be understood in the context of the

new (untested) technology involving biometric capture and retention for use in a digital world unfamiliar to many of the enrollees. (As set out elsewhere, the biometric technology itself is unreliable and the Respondents have rushed into employing this technology without any satisfactory proof of its efficacy. At the time when the Aadhaar project was launched, there were no satisfactory large scale biometric capture pilot projects conducted to validate the use of this technology and events since the roll out show that the technology being used is a failure and operates to exclude citizens from enjoying their entitlements. The biometric authentication does not work and is being rejected at the field level. Indeed, the so called uniqueness and reliability of the Respondents' previous claims is severely undermined by section 6 of the Act which recognizes that the biometric and demographic information may have to be updated from time to time to ensure continued accuracy.)

At a minimum, informed consent would require proper and meaningful counselling of the person whose biometric and demographic information is being taken by informing him or her of the following:

- (1) The issuance of the Aadhaar number is voluntary. No person can suffer any adverse consequence by not enrolling for an Aadhaar number.

- (2) A categorical and clear statement to the potential enrollee that the biometric information belongs to him or her and is his or her personal property and that he or she has continuous ownership, dominion and control over this biometric information.
- (3) Should the potential enrollee agree to part with the biometric information, this information would be stored in a CIDR.
- (4) The biometric information stored in the CIDR is connected to the internet and despite security features is capable of being hacked and breached in which case the biometric information could fall in the hands of wrongdoers.
- (5) The biometric information is captured, stored and retained as well as processed for de-duplication on systems which are using technologies that are not owned by the Respondents/government but are owned and operated by private foreign companies (or companies under the control of foreign corporations) which are associated with foreign governments and their intelligence agencies.
- (6) That none of the persons at the enrolment centers are government employees and that the biometric capture as well as the collection of demographic is in the hands of private entities alone. The documents being shown and

retained by the private enrollers could be utilized by the private enrollers for commercial gain.

- (7) The core biometric and demographic information parted with by the enrollee can be used by any wrongdoer to impersonate the individual and can be used to falsely create identities as well as a presence and profile of an individual by a wrongdoer.
- (8) The Respondents will be utilizing the captured biometric information of the enrollee as part of a larger pool of information gathered and will be charging third parties and making profit/earning income / making commercial gain on the basis of the demographic information collected free of charge from the individual.
- (9) The demographic information collected by the private entities could be utilized by them for their private commercial gain.
- (10) There is no encryption of demographic information collected and the enrollers are required to retain copies of important personal demographic information.
- (11) There is no 'opt out' provision and the enrollee cannot require all information and records of authentication and usage to be destroyed. (There is no right to be forgotten).

- (12) Should the biometric information be illegally obtained by any prosecuting agency then that information can be used in criminal proceedings against the individual and there is no recourse for an individual.
- (13) Demographic information illegally obtained by any prosecuting agency can also be used to incriminate an individual.
- (14) Upon the capture of biometric and demographic information, an enrollee will have no control in the future over updating or correcting this information.
- (15) The enrollee may be excluded from receiving benefits, services, etc. should at a future point the enrollee's biometrics not get authenticated or match the record of the Respondents, amounting to denial of benefits and services.
- (16) Given the open ended manner in which the Respondents propose to engage in authentication, all nature of benefit services, exercise of rights, enforcement of entitlements, etc may become conditional upon the authentication process.

None of the minimum measures of counselling enumerated above were or are taken. Moreover, a genuine process of securing informed consent would have to be carried out in a language understood by the enrollee and after due and

adequate training of the enroller. This too was not done. Further, it is reasonable that where there is any meaningful counselling, several potential enrollees upon being informed about their rights as well as the possible consequences of enrolment would opt out and decline to be enrolled. There is no material to show that upon being counselled persons herded into the enrolment centres declined to part with their biometrics or demographic information. It is submitted that this is a very strong indication of the absence of any meaningful process for securing informed consent and is also indicative of the non-voluntary, coercive method applied to enroll individuals. Moreover, in the backdrop of any express written consent indicating that counselling took place and that consent was given thereafter, there is no informed consent in the eye of law. The impugned Act is built on the edifice of an illegal programme that has through a process of duplicity gathered personal sensitive data and information from citizens without securing informed consent. The programme is antithetical to fairness and good governance. The impugned Act purports to validate actions taken. However, there cannot be a legal fiction in matters of informed consent on the scale of 1 billion individuals. The impugned Act is colourable because its object is colourable.

- G. The impugned Act completely fails to protect privacy interests. A citizen's right to privacy is a fundamental right that is constitutionally protected. The right to privacy in the context of

the impugned Act has many dimensions, inter alia, (i) a citizen's complete right over ownership and control of her core biometric information to the exclusion of all others including the State; (ii) a right to self-determination with respect to core biometric information which right extends even after a person has (voluntarily or otherwise) parted with his or her core biometric information; (iii) a person's inalienable and permanent right against 'digital slavery' implying a right to require the State to unshackle the individual's core biometrics from the records of the State and to compel such records to be erased and removed permanently; (iv) a person's right to prevent the State from using core biometric information to the detriment or prejudice of a person; (v) the right to ensure that the core biometric information is not used to incriminate the person made to part with her biometrics; (vi) the right to personal autonomy which implies that a person may require all core biometric information in the control and custody of a fiduciary or trustee to be destroyed at any point of choosing of that individual; (vii) the right to ensure that the personal biometric information cannot potentially be utilized for surveillance, tracking or tagging or profiling of the individual; (viii) the right of the individual to access and/or update the information held in trust by the State; (ix) the right of the individual to be informed and heard when his or her data (biometric and/or demographic) is sought to be shared with or given access to a third party; (x) the right of the individual to

know and verify all the instances in which his or her data (biometric and/or demographic) has been shared with a third party and the purpose thereof; (x) the right of the individual to make enquires and satisfy himself or herself that whenever personal data is sought to be shared with a third party such sharing takes place only to the extent necessary.

Each of these dimensions of privacy remain unaddressed and/or actively violated by the provisions of the impugned Act. The impugned Act is unconstitutional inasmuch as it violates the fundamental right to privacy.

- H. Where private sensitive core biometric and demographic information is being stored by the Respondents, minimal standards of national security as well as aspects such as the financial security of the nation require that the Respondents have control over the manner and method of storage, access and operation with respect to Aadhaar data. Here, the systems operating Aadhaar are by third party overseas defence contractors and corporations associated with foreign governments and intelligence agencies. The failure and neglect on the part of the Respondents to create a sufficiently secure system based on indigenous technology, control and checks undermines the Aadhaar project and takes away the credibility, integrity and security of the programme based on which the impugned Act is founded. In so far as the Petitioners are aware the source code with respect to various facets of the Aadhaar

programme including authentication, de-duplication and storage are owned by third parties and are not owned by the Respondents. It is an extension of the fiduciary and trusteeship principle that demands that the government of India itself has complete and comprehensive capacity to deal with every aspect of the Aadhaar programme, specifically the de-duplication and storage process. The Respondents have no knowledge in this behalf within their own capacity. The third party private defence contractors and multinationals who have provided the biometric recognition and de-duplication technology have power and control to access this data, manipulate this data, transmit this data overseas, remove this data, commercially exploit this data, etc. No provision in the impugned Act requires these technologies and the control of these operations to be handed over and controlled by UIDAI. Under the systems recognized by the impugned statute, these multinational corporations in perpetuity can exercise dominion and control over the Aadhaar authentication system with full access to sensitive biometrics and demographic details of Indian citizens and residents. The impugned Act is based on a programme that is run by a technology over which the Respondents exercise no real control. This amounts to a massive and pervasive national security compromise that is constitutionally impermissible.

- I. In their previous writ petition No. 829 of 2013 pending before this Hon'ble Court, the Petitioners have detailed their concerns

and also set out averments with respect to foreign corporations who indirectly or directly operate the technology and systems of the Aadhaar programme. The Petitioners state that the agreements between the Respondents herein and the foreign corporations permit the foreign corporations to access personal information of citizens as well as residents of India. In other words, these foreign corporations have already obtained access to private, confidential, personal biometric as well as demographic information belonging to Indians and which was taken by the Respondents.

Two clauses from the agreement dated 24.8.2010 between Respondents (described therein as the 'Purchaser') and M/s. L1 Identity Solution Operating Company Pvt. Ltd. (one of the foreign entity controlled companies running Aadhaar) are relevant to this issue and read:

"3. Conditions Precedent

3.1 This Contract is subject to the fulfillment of the following condition precedent by M/s L-1 Identity Solutions Operating Company.

* * *

d. Where the designated M/s L-1 Identity Solutions Operating Company is a subsidiary of a company or a member of a group of companies or is a joint venture company or is special purpose vehicle (SPV) [formed to

execute the obligations under this Contract] and where the Purchaser may specify (on account of the failure of M/s L-1 Identity Solutions Operating Company to fulfill all selection criteria specified in the Bid), the parent or flagship company/majority shareholder of such M/s L-1 Identity Solutions Operating Company having furnished an unconditional, irrevocable and continuing guarantee of an amount equivalent to Rs. 2,88,75,000 on behalf of M/s L-1 Solutions Operating Company in a form and manner acceptable to the Purchaser which would remain valid until such time, beyond the term of the Contract, as may be stipulated by the Purchaser.

e. All the members of the Consortium shall have executed a binding Consortium Contract / Agreement a notarized copy of which shall have been delivered to the Purchaser.

f. All the members of the Consortium shall have executed a Power of Attorney authorizing the Prime Consortium Member to act for and on behalf of the Consortium members, a notarized copy of which shall have been delivered to the Purchaser.

g. Furnishing of such other documents as the Purchaser may specify.

The Purchaser reserves the right to waive any or all of the conditions specified in Clause 3.1 above in writing and no such waiver shall affect or impair any right, power or remedy that the Purchaser may otherwise have.

15. Data and Hardware

15.1 By virtue of this Contract, M/s. L-1 Identify Solutions Operating Company/the team of M/s. L-1 Identify Solutions Operating Company may have access to

personal information of the Purchaser and/or a third party or any resident of India, any other person covered within the ambit of any legislation as may be applicable. The Purchaser shall have the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the residents of India that may be in the possession of M/s. L-1 Identify Solutions Operating Company or the Team of M/s. L-1 Identify Solutions Operating Company in the course of performing the Services under this Contract."

It is respectfully submitted that the impugned Act is ultra vires and unconstitutional inasmuch as it severely compromises national security by allowing private data of individuals to be accessed by foreign corporations who may utilize and exploit this data against the interest of individuals as well as against national security interest. Illustratively, once Aadhaar enabled and Aadhaar seeded programmes begin operating, it is possible by tracing authentication requests to track deployments of senior military personnel and other key government officials. Equally, it will be possible to track and locate important individuals and leaders in every field including public affairs, business and professions. Through the aggregation of data it will also be possible to pin point the collective presence of important citizens at a particular location.

- J. The Petitioners submit that Parliament lacks legislative competence to pass the impugned Act. Parliament cannot enact a legislation that invades the bodily integrity and personal integrity of Indian citizens. Parliament has no authority to en

masse collect core biometrics and store these core biometrics at a central location for authentication. Parliament cannot make legislation that provides a framework to so completely overwhelm the citizenry that from the birth of every citizen until his or her death the government maintains a digital record of services, benefits, subsidies and any other facility enjoyed by the individual. The impugned Act creates a framework that is completely destructive of the essence of individual freedom. Individual freedoms enjoyed by the citizenry mean that there is an expansive and elastic zone of activity where an individual may lead out his or her life without any oversight by the State. The role of the State being limited cannot extend to requiring periodic, frequent authentication or verification or identification through a digital framework that maintains a continuous watch on the citizenry. The impugned Act belongs to an Authoritarian and Police State framework that is completely antithetical to the Constitution of India. The Constitution of India does not confer power on any organ of government including the legislature to create a framework whereby the citizenry is required to digitally record its action and/ or continually report to a central registry maintained by the Respondents.

- K. The Petitioners submit that the impugned Act is still born. The Bill No.47 of 2016 introduced in the Lok Sabha and which upon passage became the impugned Act, was not a Money Bill in terms of Article 110 of the Constitution of India. Even though the object and purpose of the impugned legislation states that

it is to be used for the delivery of subsidies, benefits and services expenditure for which is incurred from the Consolidated Fund of India, the real scope of the impugned Act is far beyond what is envisaged under Article 110. A Bill can be correctly termed as a 'Money Bill' under Article 110 if it contains only provisions dealing with all or any of the matters specifically enumerated in clauses (a) to (g) of Article 110 (1) of the Constitution of India. The said provision deals with matters which relate to expenditure incurred or income received with respect to the Consolidated Fund of India.

It is manifest from a reading of the impugned Act that it deals with several issues that fall outside the limited scope of Article 110. Illustratively, Chapter-II comprising section 3 to 6 covers "Enrolment"; Chapter-III covering sections 7 to 10 deals with 'Authentication'; Chapter-IV covering sections 11 to 23 deals with the establishment, composition, functions, duties and powers of a new statutory authority namely the Unique Identification Authority of India. Similarly, there are extensive provisions covering aspects such as protection of information, the creation of offences and penalties and the enabling the use of the Aadhaar platform by non-governmental and private authorities.

Reading the impugned Act as a whole, this statute is no different from any regular Bill and is extremely similar to the predecessor Bill No.75 of 2010 which was referred to a

Parliamentary Standing Committee in the course of Parliamentary deliberations.

Inasmuch as the impugned Act has not followed the constitutional procedure mandated for the passage of a law by disguising the statute as a 'Money Bill', there is no valid legislative process that has been followed in this case. The Petitioners state that objections were raised to the introduction of Bill No.47 of 2016 as a Money Bill and these objections were rejected by the Hon'ble Speaker on _____. It is respectfully submitted that the legislative process adopted in this case is colourable, contrary to the safeguards in the Constitution for the enactment of a law and are subject to judicial review. It is respectfully submitted that having regard to the drastic consequences on civil liberties that the impugned Act purports to impose, the passage through Parliament is not vulnerable merely on the ground of an irregularity but is completely vitiated on the grounds of patent illegality and unconstitutionality as laid down by a Constitution Bench of this Hon'ble Court in *Raja Ram Pal v. Hon'ble Speaker Lok Sabha & Ors*, (2007) 3 SCC 184 (at paragraph 378, 386).

- L. The impugned Act suffers from the vice of excessive delegation. There are certain essential legislative functions that have to be discharged by the legislature alone and that cannot be left to a delegate. In the present case, the vice of excessive delegation applies to several areas where the impugned Act leaves matters entirely to the UIDAI (second respondent). It is

respectfully submitted that in the following areas it was impermissible for Parliament to delegate its role, inter alia,

- i) The collection of biometric and demographic information can be done only by a government agency and not by a private entity having regard to the sensitivity and value of the information being collected;
- ii) Every individual from whom information is sought must be counseled by a government official in a verifiable manner about the benefits and pit falls of enrolment;
- iii) Every potential enrollee must be counseled by the government employee that the programme is entirely voluntary and the potential enrollee will not suffer any harm, prejudice, disadvantage if he or she does not enroll;
- iv) No biometric or demographic information can be collected from any person without his or her informed consent in writing and this process would be overseen by a responsible government official;
- v) The storage, collection and operation of the Aadhaar programme must be indigenously operated and maintained without any involvement of foreign corporations or entities that could undermine national security;
- vi) The nature and type of biometric and demographic information to be collected, must be specified by Parliament and cannot be left to the delegate to decide;

- vii) The authority has the power to omit and deactivate a Aadhaar number which by virtue of the impugned Act is made an essential pre-condition for availing governmental subsidies, benefits, services and other purposes.

Excessive delegation of legislative power illustrated above renders the impugned Act ultra vires and unconstitutional.

- M. The impugned Act when examined in the context of the Aadhaar project and programme which it seeks to sanction, ought to be tested for what it is: A statute that seeks to extend and spread the use of Aadhaar identification and make it pervasive. The stated object of the Respondents for several years even prior to the enactment of the impugned law, was to replace multiple identification systems currently in vogue and available to the citizenry, with a single ubiquitous identification mechanism that is the Aadhaar number. A recent media report in the Hindu Delhi edition dated 10.04.2016 validates this apprehension.

The Petitioners submit that this objective of creating a single pervasive identification over time is itself illegal. There are several facets to the illegality and amongst them is the very negation of an individual citizen's freedom to identify through different means. The real objective of the impugned law is itself discriminatory inasmuch as it is based on an impermissible classification of (i) those who must identify themselves by

reference to an Aadhaar number and (ii) persons who wish to identify themselves through varied available means. The State cannot compel identification in one manner alone and withhold benefits, subsidies and services unless that specific method of identification is used by the individuals. The Petitioners submit that the coercive foundation of the impugned Act is in substance and illegal objective that renders the statute ultra vires Article 14 of the Constitution of India.

- N. The impugned Act seeks to legitimize an illegal enrolment process that has a very low threshold of credibility in terms of the authenticity of information collected and a complete absence of any information or screening regarding citizenship of the enrollee.

This Court by an interim order dated 23.09.2013 in the previous writ petition filed by these Petitioners, specifically directed that there must be a check on whether the person seeking to enroll is an illegal immigrant and that the Aadhaar number 'should not be given to any illegal immigrant'.

The impugned Act indiscriminately and without any reference to the legal status of a person claiming to reside in India treats those who are legally resident and those are illegally present, as a single homogeneous group for the purposes of targeted deliveries. It is respectfully submitted that illegal immigrants and legal residents cannot in law be treated as a single group for the stated object of targeted delivery in respect of

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subsidies, benefits and services for which expenses are incurred from the Consolidated Fund of India. The foundation of the impugned Act is unconstitutional having regard to the poorly verified and unreliable assessment of legal residency at the time of the issuance of the Aadhaar number.

This patent illegality stands validated by well documented reports of Aadhaar numbers being issued to persons of foreign nationalities and allegiance and who work against the national interest. Illustratively, in the Burdwan blast which took place in October, 2015, the arrested Bangladeshi suspect, Tariku Islam, had an Aadhaar number, which he had used to project himself as an Indian citizen and avoid getting arrested by the NIA. Another instance is where a Special Investigation Team, Hyderabad found that a Pakistani national, Mohammed Mohammad Nasir, who has links with a terror organisation called Harkat-ul-Jihadi Al-Islami (HuJI) had obtained an Aadhaar card.

In the facts and circumstances it was incumbent upon the Respondents to make a full and fair disclosure of all facts with respect to the manner in which Aadhaar numbers were issued to the said Tarikul Islam and Mohammed Mohammad Nasir. The Respondents have failed and neglected to disclose whether any verification regarding illegal immigrant status was carried out with respect to these individuals at the time of the enrolment.

These illustrations not only highlight the increased national security vulnerability that the impugned Act and the Aadhaar project appear to facilitate but also expose the ease with which the number is issued without any proper or indeed, adequate scrutiny.

- O. The impugned statute is unconstitutional inasmuch as it provides a State-created platform to bridge and connect information relating to an individual that is otherwise stored in separate and distinct silos. Information relating to individuals is generally available with different and distinct service providers such as hospitals, banks, clubs, post offices, employers, transport companies, retailers, etc. The impugned Act facilitates and enables the use and insistence of the Aadhaar number by service providers making it possible for the Respondent State and individual private party service providers to obtain and exchange information about third parties (enrollees) once they have access to an individual's Aadhaar number. The Petitioners submit that this amounts to a constriction of liberty and freedom and is violative of Articles 14, 19 and 21 of the Constitution of India. An individual in the course of interactions and while leading his or her life has every right to restrict the flow of information about himself or herself in relation to a third party. The intended universality of the Aadhaar number promoted through the vehicle of the impugned Act completely destroys an individual's control over his or her personal information and facilitates profiling by both the State as well as

private entities in violation of the fundamental right to privacy as well as inalienable common law right to privacy.

- P. The impugned Act is based upon an unreliable technology that depends upon the capture of biometrics. In the case of several citizens, for natural reasons or for reasons of their lifestyle and environment, biometric identification fails. The impugned Act operates to exclude persons from receiving benefits, subsidies and services for no fault on their part only because of a flawed technology, flawed instrumentation and limitations with regard to biometric capture and authentication in relation to lac of individuals.

It is respectfully submitted that the authentication process using the biometric system is flawed as explained:

1. Unreliability of biometric system for authentication:- The entire basis of the Act and the UID scheme is the use of biometric information to authenticate and provide an unique identification to an individual. It is submitted that biometrics such as finger prints are known to be unreliable as they change from time to time. In fact, this has been recognised in the Act itself wherein it has been provided for updating the data from time to time. In such a situation basing the entire governmental benefit distribution policy on such an unreliable basis is clearly arbitrary and violates Article 14.
2. Biometric Exceptions:- Apart from the unreliability of the biometric system generally, for certain segments of the population, like blind and physically handicapped persons,

providing biometric information such as fingerprints and iris scan are not possible to be captured. Thus it would again lead to exclusion rather than inclusion of all classes of individuals.

3. Unreliability of the technology for authentication:- The object of the Impugned Act is to increase efficiency by using Aadhaar database for authentication. However, the technology required for firstly collecting the data, and secondly for verifying the data is not available with the Indian government. The Indian government is reliant of foreign companies for the necessary technology. Permitting such sensitive data to be available with a foreign company impinges upon the sovereignty of our nation.

It is submitted that the technology required for verification using the database requires excellent internet connectivity. India does not even have basic reliable and continuous electricity supply much less internet connectivity necessary for authentication. All of this operates oppressively to exclude persons otherwise entitled. In the premises, the Petitioners submit that the impugned Act creates an impermissible classification between those whose biometric authentication works and those for whom it does not work, to exclude the latter from receiving benefits, subsidies and services.

The impugned programme as validated by the impugned Act is clearly arbitrary and violative of Article 14 of the Constitution of India.

Q. The Petitioners submit that there are specific provisions in the impugned Act that are unconstitutional. These provisions go to the very root of the impugned statute and upon being declared unconstitutional, it is respectfully submitted, the statute itself cannot survive.

- i) The Petitioners submit that the notion of Central Identities Data Repository as defined in section 2(h) and which expression is used at numerous places in the statute, is by itself an unconstitutional data base. The statute cannot operate without a CIDR. The notion of a
• CIDR where every individual's biometric as well as demographic information is centrally stored is an authoritarian or police state construct and has no place in a democracy that guarantees individual freedom. A CIDR from where data can be hacked and which is operated not by the Respondents, but by foreign entities is conceptually and constitutionally an impermissible compromise on national sovereignty and security.
- ii) The notion of an enrolling agency as defined in section 2(l) is also unconstitutional inasmuch as the agency as defined need not be a government entity but could be a private entity. The collection of sensitive personal

biometric and demographic data and information for the purposes of storage must be conducted by a government agency alone since this is a bare minimum procedural safeguard against the misuse and commercial exploitation of private personal information. The State, acting as a trustee and fiduciary, cannot delegate or require private enrolling agencies to discharge this non delegable function. Moreover, an enrolling agency that is operated privately cannot be entrusted with the crucial tasks of explaining the voluntary nature of Aadhaar enrolments and securing informed consent.

- iii) The definition of 'Enrolment' contained in section 2(m) is itself unconstitutionally vague and impermissible inasmuch as it fails to prescribe the mandatory precondition of obtaining informed consent in writing voluntarily after appropriately counselling the potential enrollee.
- iv) The expression 'Resident' defined in section 2(v) is arbitrary and unconstitutional inasmuch as the Act creates no credible machinery for evaluating a claim that a person has been residing in India for a period of 182 days or more, in the 12 months immediately preceding the date of application for enrolment. The forms being used by the Respondents as also proof of identification and proof of address requirement being used by Respondents until enactment of the statute nowhere

require any proof relating to residence for 182 days. The impugned Act purports to validate all these enrolments. The forms being used by the Respondents do not even contain a declaration regarding the enrollee being resident for 182 days. Further, there is no requirement in the definition of 'Resident' that the person has to be legally resident and the expression would wrongly take in illegal immigrants as well.

- v) The Petitioners submit that section 3 of the impugned Act is unconstitutional inasmuch as the State cannot exercise dominion and control over individuals en masse by collecting biometric and demographic information and rendering the citizenry servile through a framework for profiling and surveillance. Despite being under a constitutional mandate to protect and preserve fundamental rights, the impugned provision of a mass enrolment programme works to curtail and regiment individual conduct. In so far as the Petitioners are aware, no democracy where the citizenry enjoys fundamental civil, political, cultural and social rights has there ever been any similar enrolment programme to collect and thereafter centralize biometric and demographic information. In contrast, an authoritarian or police state could insist on residents bartering away their bodily integrity for use by the State.

- vi) Section 5 of the impugned Act inasmuch as it extends to children and persons with disabilities implies that the State is securing biometric and demographic data even before the age of consent in so far as children are concerned. The impugned Act in its coercive reach and application to children who have not attained the age of consent is per se unconstitutional and violative of fundamental rights of children.
- vii) Section 6 of the impugned Act is unconstitutional inasmuch as it enables the Respondents to continually compel residents to periodically furnish demographic and biometric information. This provision is coercive in operation and effect and not only undermines the so called 'voluntary' nature of the programme (as falsely claimed by the Respondents) but also undermines the false claim with respect to the 'reliability of biometrics'.
- viii) Section 7 of the impugned Act is patently unconstitutional inasmuch as it seeks to render the constitutional and statutory obligations of the State to provide benefits, subsidies and services, conditional upon an individual parting with his or her biometric and demographic information. An individual's rights and entitlements cannot be made dependent upon an invasion of his or her bodily integrity and his or her private information which the individual may not be willing to share with the State. The bargain underlying

section 7 is an unconscionable, unconstitutional bargain.

Section 7 is against the constitutional morality contained in both Part III as well the Part IV of the Constitution of India.

- ix) Section 8 is unconstitutional inasmuch as it enables tracking, tagging and profiling of individuals through the authentication process. It is a charter for surveillance in real time and with a degree of specificity that enables persons' physical movements to be traced in real time. The authentication mandate in terms of section 8 is not being worked by the Respondents through any proprietary technology and is outsourced to foreign entities or entities under the ownership and control of foreign companies and corporations. The entire framework and working of the authentication procedure in terms of section 8 is an impermissible, permanent and irreversible compromise of national sovereignty and national security.

- x) Section 9 of the impugned Act is also unconstitutional inasmuch as the Aadhaar number is de facto serving as proof of citizenship and domicile. This is seen from various media reports where even in the absence of any rigorous verification process, Aadhaar numbers are being issued. The Petitioners submit that equally subversive of national security and national integrity is the practice of passports being issued based upon an Aadhaar card. In

other words, persons who may not be entitled to passports are having Aadhaar numbers issued and thereafter securing passports in violation of citizenship provisions.

xi) Section 10 of the impugned Act is patently unconstitutional inasmuch as there are no statutory safeguards in relation to the nature of the entities who are charged with establishing and maintaining the sensitive CIDR. This provision suffers from excessive delegation apart from being unconstitutional in terms of failing to protect the national security, sovereignty and integrity.

xii) The Petitioners submit that the whole of Chapter IV of the impugned Act comprising section 11 to 23 is ultra vires and unconstitutional. The Constitution does not permit the establishment of an authority that in turn through an invasive programme can chain every Indian citizen/resident to a central data bank and maintain lifelong records and logs of that individual. The Constitution of India when read as a whole is designed for a nation of free individuals who enjoy a full range of rights and who are entitled under the Constitution to lead their lives without any monitoring or scrutiny or continuous oversight by the State or any of its organs. The high value of personal freedom runs throughout the fabric of the Indian Constitution and any authority

created for the purpose of "cradle to grave" scrutiny is directly violative of the personal freedom charter built into the Indian Constitution. The Constitution of India does not contemplate a 'nanny state' where the State oversees every individual's conduct and maintains a record of individual interactions. The UIDAI by design and function is created for an absolutely unconstitutional objective of invading privacy, electronically overseeing individuals and tethering them to a central data repository that will maintain lifelong records. The notion of individual freedom must entail the right to be alone; the right of an individual to be free from any monitoring so long as that individual does not breach or transgress any criminal law. Here, the establishment of the 2nd Respondent is for an unconstitutional purpose of overseeing and monitoring individual conduct even where the person does not remotely fall foul of any law. The 2nd Respondent is a State organ designed to invade individual freedom and whose purpose is to constrict individual freedom.

- xiii) The Petitioners submit that section 23 read with section 54 of the impugned Act are unconstitutional on the ground of excessive delegation. A perusal of the sub-clauses in section 23 (2) and the sub-clauses in section 54 (2) indicate that on every crucial aspect pertaining to biometric data, demographic information, the operation

and working of the CIDR, generating and assigning Aadhaar numbers, authentication of Aadhaar numbers, omitting and deactivating Aadhaar numbers, commercial exploitation of information collected by Government etc. are all left entirely to the 2nd Respondent without any sufficient defined legislative policy indicating the limits within which the 2nd Respondent may legitimately operate. Having regard to the invasive nature of the Aadhaar programme, its deep and pervasive impact on civil liberties and the fiduciary / trusteeship principle based on which data and information is being collected, it was incumbent upon the legislature to set out detailed and adequate limits to restrict the discretion conferred on the 2nd Respondent. The impugned provisions virtually give an unlimited charter to the 2nd Respondent to ride rough shod over fundamental rights by framing regulations as it pleases.

- xiv) The Petitioners submit that section 29 of the impugned Act is liable to be struck down inasmuch as it permits sharing of identity information. The provisions suffer from the vice of permitting the spread and dissemination of sensitive personal information through a network of entities and individuals for commercial gain or otherwise and allows for the sharing of information beyond the ostensible object of targeted deliveries. The Petitioners submit that both the biometric as well as the

demographic information are entitled to the highest degree of protection and the impugned provision inasmuch as it draws a distinction between core biometric information and other information creates an artificial distinction into two classes of information which in law are both entitled to equal protection against sharing or dissemination. The Petitioners submit that this contention also renders section 30 of the impugned Act vulnerable inasmuch as it impermissibly dilutes the protection available to demographic information.

- xv) Section 33 is unconstitutional inasmuch as it provides for the use of the Aadhaar data base for police investigation pursuant to an order of a competent court. Section 33 violates the protection against self incrimination as enshrined under Article 20 (3) of the Constitution of India. Furthermore, section 33 does not afford an opportunity of hearing to the concerned individual whose information is sought to be released by the UIDAI pursuant to the court's order. This is contrary to the principles of natural justice.

Section 33 (2) provides for disclosure of information in the interest of national security pursuant to a direction of a competent officer. The said provision is also hit by the principles of protection against self incrimination as enshrined under Article 20(3) of the Constitution of India. Further, the impugned Act does not define "interest of

national security" or otherwise limit the circumstances where the said provision can be invoked. This makes the impugned provision unconstitutional as it suffers from the vice of vagueness and arbitrariness.

xvi) Section 47 of the impugned Act is unconstitutional inasmuch as it does not allow an individual citizen who finds that there is a violation of the impugned Act to initiate the criminal process. There could be several circumstances where UIDAI itself or some 3rd party is guilty of having committed offences under the Act. By restricting the initiation of the criminal process, the impugned Act renders the penal machinery ineffective and sterile. The said section creates a bar on a court to take cognizance of any offence under the impugned Act, save on a complaint made by the UIDAI or an officer authorized by it. In effect there is a bar of cognizance of a complaint made by an individual for breach of his biometric or demographic information which has been collected by the Respondent. Such bar is unconstitutional as it forecloses legal remedy to affected individuals.

xvii) The Petitioners submit that section 57 is patently unconstitutional inasmuch as it allows an unrestricted extension of the Aadhaar platform to users who may be government agencies or private sector operators. This provision clearly shows that the impugned Act has a

much wider scope than what may legitimately be considered as a Money Bill. Moreover, this provision enables the seeding of the Aadhaar number across service providers and other gateways and thereby enables the establishment of a surveillance state. The impugned provision enables the spread of applications and Aadhaar dependent delivery systems that are provided not from Consolidated Fund of India resources but through any other means. It is respectfully submitted that section 57 also enables commercial exploitation of an individual's biometrics and demographic information by the Respondents as well as private entities.

- xviii) The Petitioners submit that section 59 of the impugned Act is unconstitutional inasmuch as it seeks to validate all action undertaken by the central government pursuant to the notification dated 28.01.2009. It is submitted that there was no consent, let alone informed consent obtained from individuals at the time of enrolment under the said notification. Such enrolment which has been conducted without obtaining adequate consent is unconstitutional as it amounts to wrongful deprivation of the most intimate personal information of an individual. Indeed, taking of an individual's biometric information without informed consent is a physical invasion of his or her bodily integrity. The collection of demographic

information through private entities and without proper counselling or written informed consent is illegal and incapable of being retrospectively ratified. All these records which have been illegally obtained and created without necessary consent ought to be destroyed and cannot be said to be validated by the impugned provision. Parliament cannot create a legal fiction of 'consent' where there was none. The executive under the Constitution of India cannot take away someone's property and then support its action on the prop of law that 'retrospectively' deems consent must have been given. Furthermore the said provision seeks to validate any action taken by the central government alone. The action of private enrollers is not even sought to be protected. Therefore all collections made by private entities under the said notification should also stand invalidated, and all data collected by private entities should be destroyed forthwith.

- R. The Petitioners submit that having regard to the scope of the impugned Act as well as the impugned Aadhaar programme, it is absolutely necessary for this Court to articulate and declare authoritatively rights and entitlements of Indian citizens in the context of the State employing digital tracking, tagging and surveillance methods. The Petitioners seek appropriate declarations as more particularly set out in the prayer clauses.

JURISDICTION

47. This petition is being preferred to this Hon'ble Court under Article 32 of the Constitution of India having regard to the violation of Article 14, 19 and 21 of the Constitution of India as explained above. Having regard to the nationwide implications of the important issues raised in this petition, this Hon'ble Court ought to entertain and hear the present petition. The Petitioners states that they have not filed any other similar petition challenging the impugned Act before this Hon'ble Court or any High Court. However, as set out above, the Petitioners have challenged the Aadhaar project in their previous writ petition (before enactment of the new law impugned herein).

PRAYERS

In view of the foregoing facts and circumstances, the Petitioners, most respectfully pray that this Hon'ble Court may be pleased to:

- a) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that that the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 is ultra vires, unconstitutional, null and void and in particular violate Articles 14, 19 and 21 of the Constitution of India;
- b) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that sections 2(h), 2(l), 2(m), 2(v), 3, 5, 6, 7, 8, 9, 10, Chapter IV, section 23 read with

section 54, section 29, section 30, section 33, section 47, section 57 and section 59 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 are ultra vires, unconstitutional, null and void and in particular violate Articles 14, 19, 20 (3) and 21 of the Constitution of India;

- c) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that the right to privacy is a fundamental right guaranteed under Part III of the Constitution of India;
- d) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that no person may be deprived of receiving any financial subsidy or other subsidy or benefit or services from the State on the ground that he or she does not have an Aadhaar number;
- e) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that no person may be deprived of receiving any goods, services or facility from the State or any private entity on the ground that he or she does not have an Aadhaar number;
- f) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that no person may be deprived of any entitlement in law enforceable against the State or its organs or any private entity on the ground that he or she is does not have an Aadhaar number;

- g) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that the State as well as service providers are duty bound to provide equally efficacious methods of access to subsidies, benefits and services as well as for the enforcement of entitlements, without requiring a citizen or person to part with his or her biometrics;
- h) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that every citizen has a fundamental right to informational self determination which includes a right to withhold biometric as well as demographic information from the State and to place limits on the extent and use of information pertaining to that individual;
- i) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that no person can be deprived of exercising constitutional, statutory, common law, contractual, customary and other rights that he or she otherwise enjoys by the State making the exercise of these rights conditional upon an Aadhaar number or Aadhaar enrolment;
- j) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that the impugned Act in so far as it applies to persons who have not attained adulthood and are not in a position to consent in law is ultra vires, unconstitutional, null and void;
- k) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that no person may be required to part with his or her core biometrics without pre-counselling, and obtaining prior informed consent in writing from that individual with respect to the use of biometrics;
- l) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring the Respondents

act as trustees and/or fiduciaries when they hold, retain, use and collect core biometric information and demographic information of individuals under the Aadhaar programme and their duties and role as trustees/fiduciaries is continuous and that the Respondents are duty bound to respond to the requisitions and directions of the individual whose biometric information is with the Respondents including directions to destroy and/or not utilize in any manner information collected from the individual;

- m) issue a writ, order or direction in the nature of Certiorari or any other appropriate writ/order/direction declaring that every citizen and human being has a right to be forgotten which includes the right to require the Respondent to destroy all digital records pertaining to the Aadhaar programme including authentication records;
- n) Issue a writ of mandamus or an appropriate writ/ order/ direction under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents to forthwith forbear from taking any steps in implementation or in furtherance of the impugned Act;
- o) Issue a writ of mandamus or an appropriate writ/order/direction under Article 32 of the Constitution of India, ordering and directing Respondents by themselves or through their officers and agents to forthwith cease and desist from taking any further steps to enrol individuals and/or collect biometric information and/or issue Aadhaar numbers to them;
- p) Issue a writ of mandamus or an appropriate writ/ order/ direction under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents forthwith destroy all data and information collected from individuals;
- q) Issue a writ of mandamus or an appropriate writ/ order/ direction under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and

agents to ensure that each and every service provider using the Aadhaar number for identification also extends the service to all persons with alternative identification, on a non-discriminatory basis;

- r) Issue a writ of mandamus or an appropriate writ/ order/ direction under Article 32 of the Constitution of India, ordering and directing the Respondents by themselves or through their officers and agents to obtain all data (biometric and other) that was taken from individuals under the Aadhaar scheme/UID project and which now lies with private parties and to destroy all such data within a time bound manner;
- s) Issue a writ of prohibition or an appropriate writ/order/ direction under Article 32 of the Constitution of India, restraining all private parties and government organizations in custody or control of any data (biometric or other) that was taken from individuals under the Aadhaar scheme/UID project and which now lies with private parties, from in any manner retaining or using this data;
- t) Issue a writ of certiorari or an appropriate writ/ order/ direction declaring that no service or supply of goods of any type offered by government or private party may be withheld from a person on the basis that he or she does not have an Aadhaar number;
- u) Issue a writ of mandamus or an appropriate writ/order/ direction directing the Respondents to affirm on affidavit that no data collected under Aadhaar scheme/UID project has been transmitted outside India;

- v) This Hon'ble Court may be pleased to award costs relating to the present petition to the Petitioners; and
- w) This Hon'ble Court may be pleased to issue any other writ/order/direction in the nature of mandamus as this Hon'ble Court may deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS , THE PETITIONERS SHALL, AS
IN DUTY BOUND , EVER PRAY

FILED BY :

M/S K.J.JOHN & CO.,
Advocates for the Petitioners

DRAWN ON : 25.07.2016

FILED ON : 11.08.2016

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. OF 2016

IN THE MATTER OF:

Mr. S.G. Vombatkere & Anr.

...Petitioners

Versus

Union of India & Anr.

...Respondents

AFFIDAVIT

I, Bezwada Wilson, S/o Late Shri Yacob, aged about 48 years, R/o 36/13 Ground Floor, East Patel Nagar, New Delhi, do hereby solemnly affirm and state as follows:-

1. I am the Petitioner No. 2 herein, I am fully conversant with the facts and circumstances of the present case and am as such competent to swear the present affidavit on behalf of the Petitioners.
2. I have gone through the contents of the accompanying List of Dates and the Writ Petition running into pages " 1 " to " 76 " and have understood the list of dates at pages " D " to " 0 " and paras " 1 " to " 8 " of the Writ Petition and say that the facts set out therein are true to my knowledge as derived from the records maintained by me and the submissions made therein are on legal advice received from my Advocates and believed to be true and correct.

3. I have read with understood the contents of the accompanying Application for interim reliefs and say that the facts set out therein are true and correct to my knowledge and the submissions made therein are on advise received from my Advocate and believed to be true.
4. I say that the Annexures P/1 to P/ 18 to the accompanying Writ Petition are true and correct copies of their respective originals.


DEPONENT

VERIFICATION:

Verified at New Delhi on this 25th day of July, 2016, that the contents of paragraphs 1 to 4 of my above affidavit are true and correct to the best of my knowledge, information and belief, that no part of it is false and nothing material has been concealed there from.


DEPONENT

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APPENDIX

Article 12 of Constitution of India 1949

"12. Definition In this part, unless the context otherwise requires, the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

Article 14 of Constitution of India 1949

"14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth."

Article 19 in The Constitution Of India 1949

"19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) omitted

(g) to practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order,

decency or morality or in relation to contempt of court, defamation or incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise"

Article 21 in The Constitution Of India 1949

"21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law."

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Article 32 in The Constitution Of India 1949

"32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution"

Section 6 of THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES)Act, 2016

"6. The Authority may require Aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations, so as to ensure continued accuracy of their information in the Central Identities Data Repository."

Section 57 of THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES)Act, 2016

"57. Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect: Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under section 8 and Chapter VI."

Section 59 of THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES)Act, 2016

"59. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing

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notification number A-43011/02/2009-Admin. I, dated the 28th January, 2009, or by the Department of Electronics and Information Technology under the Cabinet Secretariat Notification bearing notification number S.O. 2492(E), dated the 12th September, 2015, as the case may be, shall be deemed to have been validly done or taken under this Act."

Petitioner No 1.1 i.e. Sudhir Vombatkere's Profile.

The 1st Petitioner is a citizen of India and is aged about 71 years.

The 1st Petitioner is a retired Indian Army officer who retired after 35 years in uniform in the rank of major general from the post of Additional DG in charge of Discipline and Vigilance at Army HQ, New Delhi. He has been awarded the Visishta Seva Medal (VSM) by President of India in 1993 for his distinguished service rendered in Ladakh.

He holds a PhD degree in civil structural dynamics from I.I.T., Madras. After retirement, he is engaged in voluntary social work at Mysore and other areas around Karnataka. The 1st Petitioner is also an Adjunct Associate Professor in International Studies of the University of Iowa, USA and teaches under graduate students from USA and Canada in programs where the students visit Mysore.

In so far as the Unique Identification Project UID project") is concerned, the 1st Petitioner has written various articles pointing out the security risks of the project.

THE HINDU

Published February 6, 2013 00:30

The architects of the unique identification scheme are yet to provide satisfactory answers to concerns about data security.

The Aadhaar scheme of the Unique Identification Authority of India (UIDAI) is to provide India's billion-plus people with a unique identification number. Enrolment is not mandatory, though it was

mentioned that it would be difficult for people to access public services if not done. The scheme requires individuals to provide their photograph, fingerprints and iris scan along with documentary personal information for data capture by outsource operators. It is meant to bypass the corrupt bureaucratic system and deliver government subsidies and grants to the poor, and bring them into the banking system. Sceptics argue that it is an effort to capture the funds of hundreds of millions of micro- and nano-investors who are today outside the banking system, to bring them into the credit economy.

The scheme was introduced as a pilot project in Karnataka's Mysore district. The poor and those who survive on daily wages were not enthusiastic about enrolment, because it meant losing four or five days wages, to stand in queues, to fill up forms, to produce documents, to provide biometrics, etc., and later, to open bank accounts. The UIDAI overcame the initial reluctance by wide advertisement of the benefits of enrolment. When this too did not achieve the target set, the local administration informed the public that PDS ration and LPG supply would not be available without the Aadhaar number. This resulted in serpentine queues right through the day at enrolment centres, at the end of which the UIDAI could claim that 95 per cent of Mysore district's population had enrolled itself into the scheme.

Media reports indicate that commencing January 1, 2013, MGNREGA, the Rajiv Gandhi Awas Yojana (RGAY), the Ashraya housing scheme, Bhagyalakshmi and the social security and pension scheme will be

linked with Aadhaar in Mysore district. This linking, with rights like salary and pension, and important entitled benefits and services, has raised some hackles because enrolment is not mandatory.

It has led to questions on whether salary and pension rights, and benefits like PDS ration and LPG supply can be denied just because an individual does not possess a unique Aadhaar number. Today, teachers in Maharashtra and government employees in Jharkhand cannot draw their salaries. Apart from pro-poor projects like MGNREGA and RGAY, even jobs, housing, provident funds and registering a marriage now require enrolment. From being not mandatory, the "poor-inclusive" Aadhaar scheme appears to have quietly metamorphosed into becoming exclusionary and non-optional.

The UIDAI's own Biometrics Standards Committee stated that retaining biometric efficiency for a database of more than one billion people "has not been adequately analysed" and the problem of fingerprint quality in India "has not been studied in depth." Thus the technological basis of the project remains doubtful.

Criticism from the top

However, the severest critic of the entire scheme has been the Parliamentary Standing Committee on Finance (PSCF), which deliberated that the Aadhaar scheme is "full of uncertainty in technology as the complex scheme is built upon untested, unreliable technology and several assumptions." It found Aadhaar to be "directionless" and "conceptualized with no clarity." But the

UIDAI shelters under the Prime Minister's protective wing and continues to stonewall not only public queries and criticism, but also the unequivocal verdict of the PSCF.

Possibly even more serious is data security, and the consequent threat to privacy. The UIDAI claims that I access to its database will be secure from intelligence agencies. This claim is hollow, because the Aadhaar project is contracted to receive technical support from L-I Identity Solutions!(now MorphoTrust USA), a well-known defence contractor. Contracts are also awarded to Accenture Services Pvt. Ltd., which works with the U.S. Homeland Security, and Ernst & Young to install the UIDAI's Central ID Data Repository. It is impossible to ensure database security when technical providers are American business corporations, and U.S. law requires them to provide information demanded of them, to U.S. Homeland Security. But the UIDAI is in denial.

If biometric data and other personal information fall into the hands of unauthorised agencies, privacy is unequivocally compromised. Compromising an individual's personal data affects only that person, but when the personal data of many millions of people is involved, there is potential for a national disaster. The fact that the UIDAI is silent on or evasive about these security concerns does not inspire confidence in the capability of the UIDAI or the Aadhaar system to maintain the right to personal privacy.

Though the Aadhaar project is "not mandatory," enrolment by threat of exclusion from availing benefits , and services, and threat of

denial of rights like salary or pension makes it non-optional. This kind of deviousness is unbecoming of a democratically elected government.

Coming on top of many huge scams, the present government may suffer electorally if it persists in using unethical, extra-legal coercion to impose the security-defective, technologically unproven, very expensive UID Aadhaar scheme on the public.

(Major General S.G. Vombatkere, who retired as Additional Director General, Discipline & Vigilance in Army HQ, New Delhi, writes on strategic and development-related issues.)

Keywords Authority Aadhaar scheme, Unique identification Authority of India, Biometrics Standards Committee, MGNREGA, PDS ration, Rajiv Gandhi Awas Yojana.

REPORTABLE
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ... Petitioners

Versus

Union of India & Others ... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVIL) NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

ORDER

1. In this batch of matters, a scheme propounded by the Government of India popularly known as "Aadhaar Card Scheme" is under attack on various counts. For the purpose of this order, it is

Signature Not Verified
Digitally signed by
Chief Justice of India
Date: 2014.08.11
12:24:30
Reason:

It is necessary for us to go into the details of the nature of the scheme

and the various counts on which the scheme is attacked. Suffice it to say that under the said scheme the Government of India is collecting and compiling both the demographic and biometric data of the residents of this country to be used for various purposes, the details of which are not relevant at present.

2. One of the grounds of attack on the scheme is that the very collection of such biometric data is violative of the "right to privacy". Some of the petitioners assert that the right to privacy is implied under Article 21 of the Constitution of India while other petitioners assert that such a right emanates not only from Article 21 but also from various other articles embodying the fundamental rights guaranteed under Part-III of the Constitution of India.

3. When the matter was taken up for hearing, Shri Mukul Rohatgi, learned Attorney General made a submission that in view of the judgments of this Court in *M.P. Sharma & Others v. Satish Chandra & Others*, AIR 1954 SC 300 and *Kharak Singh v. State of U.P. & Others*, AIR 1963 SC 1295, (decided by Eight and Six Judges respectively) the legal position regarding the existence of the fundamental right to privacy is doubtful. Further, the learned Attorney General also submitted that in a catena of decisions of this Court rendered subsequently, this Court referred to "right to privacy", contrary to the judgments in the abovementioned cases which resulted

in a jurisprudentially impermissible divergence of judicial opinions.

"A power of search and seizure is in any system of jurisprudence an overriding power of the State for the protection of social security and that power is necessarily regulated by law. When the Constitution makers have thought fit not to subject such regulation to constitutional limitations **by recognition of a fundamental right to privacy**, analogous to the American Fourth Amendment, **we have no justification to import it, into a totally different fundamental right, by some process of strained construction.** [See: *M.P. Singh & Others v. Satish Chandra & Others*, AIR 1954 SC 300, page 306 para 18]

"... Nor do we consider that Art. 21 has any relevance in the context as was sought to be suggested by learned counsel for the petitioner. As already pointed out, **the right of privacy is not a guaranteed right under our Constitution** and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by Part III." [See: *Kharak Singh v. State of U.P. & Others*, AIR 1963 SC 1295, page 1303 para 20]

[Emphasis supplied]

4. Learned Attorney General submitted that such impermissible divergence of opinion commenced with the judgment of this Court in ***Gobind v. State of M.P. & Another***, (1975) 2 SCC 148, which formed the basis for the subsequent decision of this Court wherein the "right to privacy" is asserted or at least referred to. The most important of such cases are ***R. Rajagopal & Another v. State of Tamil Nadu & Others***, (1994) 6 SCC 632 (popularly known as *Auto Shanker's* case) and ***People's Union for Civil Liberties (PUCL) v. Union of India & Another***, (1997) 1 SCC 301.
5. All the judgments referred to above were rendered by smaller Benches of two or three Judges.
6. Shri K.K. Venugopal, learned senior counsel appearing for one of

the respondents submitted that the decision of this Court in **Gobind** (*supra*) is not consistent with the decisions of this Court in **M.P. Sharma** and **Kharak Singh**. He submitted that such divergence is also noticed by the academicians, Shri F.S. Nariman, Senior Advocate of this Court and Shri A.M. Bhattacharjee¹, Former Chief Justice, High Court at Calcutta and High Court at Bombay.

7. Therefore, it is submitted by the learned Attorney General and Shri Venugopal that to settle the legal position, this batch of matters is required to be heard by a larger Bench of this Court as these matters throw up for debate important questions - (i) whether there is any "right to privacy" guaranteed under our Constitution. (ii) If such a right exists, what is the source and what are the contours of such a right as there is no express provision in the Constitution adumbrating the right to privacy. It is therefore submitted that these batch of matters are required to be heard and decided by a larger bench of at least five Judges in view of the mandate contained under Article 145(3)² of the Constitution of India.

¹ A.M. Bhattacharjee, *Equality, Liberty & Property under the Constitution of India*, (Eastern Law House, New Delhi, 1997)

² Article 145(3). The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this chapter other than Article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is

8. On behalf of the petitioners Shri Gopal Subramaniam and Shri Shyam Divan, learned senior counsel very vehemently opposed the suggestion that this batch of matters is required to be heard by a larger bench. According to them:

(i) The conclusions recorded by this Court in **R. Rajagopal** and **PUCL** are legally tenable for the reason that the observations made in **M.P. Sharma** regarding the absence of right to privacy under our Constitution are not part of ratio decidendi of that case and, therefore, do not bind the subsequent smaller Benches.

(ii) Coming to the case of **Kharak Singh**, majority in **Kharak Singh** did hold that the right of a person not to be disturbed at his residence by the State and its officers is recognized to be a part of a fundamental right guaranteed under Article 21 which is nothing but an aspect of privacy. The observation in para 20 of the majority judgment at best can be construed only to mean that there is no fundamental right of privacy against the State's authority to keep surveillance on the activities of a person. Even such a conclusion cannot be good law any more in view of the express declaration made by a seven-Judge bench decision of this Court in **Maneka Gandhi v. Union of India &**

Another, (1978) 1 SCC 248³.

necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion

³ Para 5. ... It was in **Kharak Singh v. State of U.P.**, AIR 1963 SC 1295 that the question as to the proper scope and meaning of the expression 'personal liberty' came up pointedly for consideration for the first time before this Court. The

(iii) They further argued that both *M.P. Sharma (supra)* and *Kharak Singh (supra)* came to be decided on an interpretation of the Constitution based on the principles expounded in *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27. Such principles propounded by *A.K. Gopalan* themselves came to be declared wrong by a larger Bench of this Court in *Rustom Cavasjee Cooper v. Union of India*, (1970) 1 SCC 248. Therefore, there is no need for the instant batch of matters to be heard by a larger Bench.

9. It is true that *Gobind (supra)* did not make a clear declaration that there is a right to privacy flowing from any of the fundamental rights guaranteed under Part-III of the Constitution of India, but observed that "Therefore, even assuming that the right to personal liberty, the right to move freely throughout the territory of India and the freedom of speech create an independent right of privacy as an emanation from them which one can characterize as a fundamental right, we do not think that the right is absolute". This Court proceeded to decide the case on such basis.

10. However, the subsequent decisions in *R. Rajagopal (supra)* and

majority of the Judges took the view "that 'personal liberty' is used in the article as a compendious term to include within itself all the varieties of rights which go to make up the 'personal liberties' of man other than those dealt with in the several clauses of Article 19(1). In other words, while Article 19(1) deals with particular species or attributes, of that freedom, 'personal liberty' in Article 21 takes in and comprises the residue". The minority judges, however, disagreed with this view taken by the majority and explained their position in the following words: "No doubt the expression 'personal liberty' is a comprehensive one and the right to move freely is an attribute of personal liberty. It is said that the freedom to move freely is carved out of personal liberty and, therefore, the expression 'personal liberty' in Article 21 excludes that attribute. In our view, this is not a correct approach. Both are independent fundamental rights, though there is overlapping. There is no question of one being carved out of another. The fundamental right of life and personal liberty has many attributes and some of them are found in Article 19. If a person's fundamental right under Article 21 is infringed, the State can rely upon a law to sustain the action, but that cannot be a complete answer unless the said law satisfies the test laid down in Article 19(2) so far as the attributes covered by Article 19(1) are concerned". There can be no doubt that in view of the decision of this Court in *R. C. Cooper v. Union of India*, (1970) 2 SCC 298 the minority view must be regarded as correct and the majority view must be held to have been overruled.

PUCL (supra), the Benches were more categorical in asserting the existence of "right to privacy". While *R. Rajagopal's case*⁴ held that the "right to privacy" is implicit under Article 21 of the Constitution, *PUCL's case* held that the "right to privacy" insofar as it pertains to speech is part of fundamental rights under Articles 19(1)(a) and 21 of the Constitution⁵.

11. Elaborate submissions are made at the bar by the learned counsel for the petitioners to demonstrate that world over in all the countries where Anglo-Saxon jurisprudence is followed, 'privacy' is recognised as an important aspect of the liberty of human beings. It is further submitted that it is too late in the day for the Union of India to argue that the Constitution of India does not recognise privacy as an aspect of the liberty under Article 21 of the Constitution of India. At least to the extent that the right of a person to be secure in his house and not to be disturbed unreasonably by the State or its officers is

⁴ Para 9. "Right to privacy is not enumerated as a fundamental right in our Constitution but has been inferred from Article 21."

⁵ Para 18. "The right to privacy — by itself — has not been identified under the Constitution. As a concept it may be too broad and moralistic to define it judicially. Whether right to privacy can be claimed or has been infringed in a given case would depend on the facts of the said case. But the right to hold a telephone conversation in the privacy of one's home or office without interference can certainly be claimed as "right to privacy". Conversations on the telephone are often of an intimate and confidential character. Telephone conversation is a part of modern man's life. It is considered so important that more and more people are carrying mobile telephone instruments in their pockets. Telephone conversation is an important facet of a man's private life. Right to privacy would certainly include telephone conversation in the privacy of one's home or office. Telephone-tapping would, thus, infract Article 21 of the Constitution of India unless it is permitted under the procedure established by law."

19. Right to freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution. This freedom means the right to express one's convictions and opinions freely by word of mouth, writing, printing, picture, or in any other manner. When a person is talking on telephone, he is exercising his right to freedom of speech and expression. Telephone-tapping unless it comes within the grounds of restrictions under Article 19(2) would infract Article 19(1)(a) of the Constitution."

expressly recognized and protected in **Kharak Singh** (*supra*) though the majority did not describe that aspect of the liberty as a right of privacy, it is nothing but the right of privacy.

12. We are of the opinion that the cases on hand raise far reaching questions of importance involving interpretation of the Constitution. What is at stake is the amplitude of the fundamental rights including that precious and inalienable right under Article 21. If the observations made in **M.P. Sharma** (*supra*) and **Kharak Singh** (*supra*) are to be read literally and accepted as the law of this country, the fundamental rights guaranteed under the Constitution of India and more particularly right to liberty under Article 21 would be denuded of vigour and vitality. At the same time, we are also of the opinion that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches without appropriately explaining the reasons for not following the pronouncements made by such larger Benches. With due respect to all the learned Judges who rendered the subsequent judgments - where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court.

13. Therefore, in our opinion to give a quietus to the kind of

controversy raised in this batch of cases once for all, it is better that the ratio decidendi of **M.P. Sharma** (*supra*) and **Kharak Singh** (*supra*) is scrutinized and the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred be examined and authoritatively decided by a Bench of appropriate strength.

14. We, therefore, direct the Registry to place these matters before the Hon'ble the Chief Justice of India for appropriate orders.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

REPORTABLE

IN THE SUPREME COURT OF INDIA

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ...Petitioners

Versus

Union of India & Others

... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVIL) NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

ORDER

Having regard to importance of the matter, it is desirable
that the matter be heard at the earliest.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

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REPORTABLE

IN THE SUPREME COURT OF INDIA
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CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

INTERIM ORDER

After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim orders. The last interim order in force is the order of this Court dated 23.9.2013 which reads as follows:-

“

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners, having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to

about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known considerations for grant of injunction are in favour of the petitioners.

The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar cards or fully utilising the existing Aadhaar cards for the social schemes of the Government should be allowed.

The learned Attorney General further stated that the

respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;
4. The information about an individual obtained by the Unique

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Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.

.....J.
(J. Chelameswar)

.....J.
(S.A. Bobde)

.....J.
(C. Nagappan)

New Delhi
August 11, 2015

ITEM NO.1

COURT NO.6

SECTION PIL(W)/XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 494/2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay, impleadment, clarification/modification of Court's order, intervention, directions, impleadment, permission to file additional documents and office report)
(For Final Disposal)

WITH

T.C. (C) No. 151/2013

(With impleadment as party respondent and modification of Court's order)

T.C. (C) No. 152/2013

W.P. (C) No. 829/2013

(With appln. (s) for impleadment and impleadment/directions and interim relief and office report)

W.P. (C) No. 333/2013

(With appln. (s) for impleadment and appln. (s) for permission to file additional documents and Office Report)

W.P. (C) No. 932/2013

(With appln. (s) for directions and interim directions and Office Report)

T.P. (C) No. 312/2014

(With Office Report)

T.P. (C) No. 313/2014

(With Office Report)

W.P. (C) No. 37/2015

(With amendment of memo of parties and interim stay and permission to file additional documents and office report)

W.P. (C) No. 220/2015

(Directions)

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T.P.(C) No. 921/2015
(Office report)

Contempt Petition(C) No. 144/2014 in W.P.(C) No. 494/2012
(Directions)

Contempt Petition(C) No. 470/2015 in W.P.(C) No. 494/2012
(With appln(s) for exemption from filing O.T.)

Date : 11/08/2015 These petitions were called on for
pronouncement of orders today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

WP(C) No. 829/2013 Mr. Shyam Divan, Sr. Adv.
Mr. Aayush Agarwal, Adv.
Ms. Prasanna S., Adv.
Ms. Niharika, Adv.
Mr. Pratap Venugopal, Adv.
Mr. Gaurav Nair, Adv.
For M/s. K.J. John & Co.

WP(C) no. 37/2015 Mr. Gopal Subramaniam, Sr. Adv..
Ms. Aishwarya Bhati, Adv.
Mr. Talha Abdul Rahman, Adv.
Mr. Prateek Chaddha, Adv.
Mr. Ankur Kashyap, Adv.
Mr. Kushagra Pandey, Adv.
Ms. Anusha Ramesh, Adv.
Mr. Rudra Pratap, Adv.
Mr. Saransh Kumar, Adv.
Mr. Anirban Sen, Adv.
Ms. Neha Meena, Adv.
Ms. Madhurima Ghosh, Adv.
Mr. T. Gopal, Adv.

WP(C) no. 494/2012 Mr. Soli Sorabjee, Sr. Adv.
Mr. Anil B. Diwan, Sr. Adv.
Mr. Ankit Goel, Adv.
Mr. Sanjay Kumar Yadav, Adv.
Mr. Anish Kumar Gupta, Adv.

TP(C) No. 151/2013 Mrs. Geetha Kovilan, Adv.
Mr. P.R. Kovilan, Adv.

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TP(C) No. 921/2015 Ms. Pinky Anand, ASG
 Mr. A.K. Sanghi, Sr. Adv.
 Mr. S.S. Rawat, Adv.
 Mr. D.S. Mahra, Adv.

TC(C) No. 152/2013 Ms. Meenakshi Arora, Sr. Adv.
 Mr. Rahul Narayan, Adv.
 Mr. Mohit Singh, Adv.

Mr. Vijay Kumar, Adv.

Mr. Amit Meharia, Adv.
 Mr. Dhritiman Das, Adv.
 for M/s. Meharia & Company, Adv.

WP(C) no. 932/2013 Dr. Abhishek Atrey, Adv.
 CC(C) no. 470/2015 Mr. Sella Kumar, Adv.
 Mr. Sumit Rajora, Adv.

For Respondent(s)

UOI Mr. Mukul Rohatgi, AG
 Ms. Pinky Anand, ASG
 Mr. R. Balasubramanian, Adv.
 Mr. Ajay Sharma, Adv.
 Mr. S.S. Rawat, Adv.
 Ms. Devanshi Singh, Adv.
 Ms. Binu Tamta, Adv.
 Mr. Zoheb Hossain, Adv.
 Ms. Kritika Sachdeva, Adv.
 Ms. Ranjeeta Rohatgi, Adv.
 Mr. Vakul Sharma, Adv.
 Ms. Meenakshi Grover, Adv.
 Mr. Karan Seth, Adv.
 Mr. D.S. Mahra, Adv.

IA no. 11/2014 Mr. K.K. Venugopal, Sr. Adv.
 Mr. Gopal Sankaranarayanan, Adv.
 Ms. Prerna Priyadarshini, Adv.
 Mr. Ankur Talwar, Adv.
 Ms. Nidhi, Adv.
 Ms. Savita Singh, Adv.

State of Telangana Mr. S. Udaya Kumar Sagar, Adv.
 Mr. Krishna Kumar Singh, Adv.

-4-

RBI	Mr. Jayant Bhushan, Sr. Adv. Mr. Kuldeep S. Parihar, Adv. Mr. H.S. Parihar, Adv.
NCT of Delhi	Mr. J.M. Kalia, Adv.
State of Goa	Mr. Ninad Laud, Adv. Mr. Karan Mathur, Adv. Mr. Jayant Mohan, Adv.
A&N Administration	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, Adv.
State of Assam	M/s. Corporate Law Group
State of HP	Mr. J.S. Attri, Sr. Adv. Mr. Suryanarayana Singh, Sr. AAG Mr. Varinder Kumar Sharma, Adv. Ms. Pragati Neekhra, Adv.
State of Maharashtra	Mr. Nachiketa Joshi, Adv. Mr. Nishant Katneshwarkar Adv. Mr. E.C. Agrawala, Adv.
State of Bihar	Mr. Abhinav Mukerji, Adv. Ms. Bihu Sharma, Adv.
State of AP	Mr. Guntur Prabhakar, Adv. Ms. Prerna Singh, Adv.
State of Uttarakhand	Mr. Jatinder K. Bhatia, Adv.
State of TN	Mr. B. Balaji, Adv Mr. R. Rakesh Sharma, Adv. Mr. Mishra Saurabh, Adv.
State of Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Z.H. Isaac Haiding, Adv. Mr. S. Vijayanand Sharma, Adv. Mr. Ashok Kumar Singh, Adv.
State of Mizoram	Mr. K.N. Madhusoodhanan, Adv. Mr. T.G.N. Nair, Adv.

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State of Sikkim	Mr. A. Mariarputham, AG Ms. Aruna Mathur, Adv. Mr. Yusuf Khan, Adv. Mr. K. Vijay Kumar, Adv. M/s. Arputham Aruna & Co.
State of Nagaland	Ms. K. Enatoli Sema, Adv. Mr. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv.
ECI	Mr. Ashok Desai, Sr. Adv. Mr. S.K. Mendiratta, Adv. Ms. Monisha Nanda, Adv. Mr. Mohit D. Ram, Adv. Mr. Sajjan Poovayya, Sr. Adv. Mr. Praveen Sehrawat, Adv. Mr. Priyadarshi Banerjee, Adv. Mr. Sarans Jain, Adv.
State of Assam	Mr. Gopal Singh, Adv. Mr. Rituraj Biswas, Adv. Ms. Rashmi Srivastava, Adv.
State of Arunachal Pradesh	Mr. Anil Shrivastav, Adv. Mr. Rituraj Biswas, Adv.
UT Chandigarh	Ms. Vimla Sinha, Adv. Mr. Gopal Singh, Adv.
State of Kerala	Mr. Jogy Scaria, Adv. Mr. Reegan S. Bel, Adv.
State of Punjab	Mr. Sanchar Anand, AAG Mr. Apoorv Singhal, Adv. Mr. Jagjit Singh Chhabra, Adv.
State of Jharkhand	Mr. Ajit Kumar Sinha, Sr. Adv. Mr. Tapesk Kumar Singh, Adv. Mr. Mohd. Waquas, Adv.
State of Chhatisgarh	Mr. C.D. Singh, Adv. Ms. Sylona Mohapatara, Adv.
Govt. of Puducherry	Mr. V.G. Pragasaam, Adv. Mr. Prabu Ramasubramanian, Adv.

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IA No. 5/2014 in

WP(C) no. 833/2013 Mr. Praveen Sehrawat, Adv.
 Mr. Priyadarshi Banerjee, Adv.

Mr. Nikhil Nayyar, Adv.

Ms. Anitha Shenoy, Adv.

State of WB

Mr. Soumitra G. Chaudhuri, Adv.
 Mr. Anip Sachthey, Adv.

State of Rajasthan

Mr. Shiv Mangal Sharma, AAG
 Ms. Abhinandini Sharma, Adv.
 Mr. Nishit Agrawal, Adv.
 Ms. Anjali Chauhan, Adv.
 Mr. Shrey Kapoor, Adv.
 Mr. Saurabh Rajpal, Adv.
 Mr. Milind Kumar, Adv.
 Ms. Ruchi Kohli, Adv.

Mr. Aniruddha P. Mayee, Adv.

Mr. Garvesh Kabra, Adv.

State of Gujarat

Ms. Hemantika Wahi, Adv.
 Ms. Jesal Wahi, Adv.
 Ms. Vinakshi Kadan, Adv.

Mr. Saikrishna Rajagopal, Adv.
 Mr. Arjun Ranganathan, Adv.
 Ms. Julien George, Adv.

Ms. C. K. Sucharita, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Dinkar Kalra, Adv.

Mr. Amit Sharma, Adv.

Mr. T.G. Narayan Nair, Adv.

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UPON HEARING the Counsel The Court made the following
O R D E R

10.30 a.m.

By a reasoned order, the matters are referred to a Bench of appropriate strength.

Having regard to importance of the matter, it is desirable that the matter be heard at the earliest.

2.00 p.m.

After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim orders. The last interim order in force is the order of this Court dated 23.9.2013 which reads as follows:-

"....

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

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The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known consideration for grant of injunction are in favour of the petitioners.

The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar-cards or fully utilising the existing Aadhaar cards for the social schemes of the Government should be allowed.

The learned Attorney General further stated that the respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

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1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;
4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER

(Three signed reportable Orders are placed on the file)

ITEM NO.501

COURT NO.1

SECTION PIL(W)

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

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Writ Petition(s) (Civil) No(s). 494/2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for interim relief and appln.(s) for
impleadment/directions and appln.(s) for impleadment and appln.(s)
for impleadment and appln.(s) for impleadment and appln.(s) for
impleadment, permission to file addl.documents and permission to
file addl.affidavit and Office Report)

WITH T.C.(C) No. 151/2013

(With appln.(s) for modification of court's order and appln.(s) for
impleadment as party respondent)

T.C.(C) No. 152/2013

With W.P.(C) No. 829/2013

(With appln.(s) for interim relief and appln.(s) for
impleadment/directions and appln.(s) for impleadment and appln.(s)
for impleadment and appln.(s) for impleadment and appln.(s) for
impleadment and Office Report)

W.P.(C) No. 833/2013

(With appln.(s) for permission to file additional documents and
appln.(s) for impleadment and appln.(s) for directions and appln.
(s) for impleadment and appln.(s) for impleadment and Office
Report)

W.P.(C) No. 932/2013

(With appln.(s) for clarification of court's order and appln.(s)
for directions and appln.(s) for interim directions and Office
Report)

T.P.(C) No. 312/2014

(With Office Report)

T.P.(C) No. 313/2014

(With Office Report)

Signature/Initials
Digitally signed by
Ramesh Varma Gani
Date: 2015.05.16
11:40:43 IST
Reason: ...

W.P.(C) No. 37/2015

(With appln.(s) for permission to file additional documents and appln.(s) for interim stay and appln.(s) for permission to file additional documents and appln.(s) for directions and appln.(s) for impleadment and Office Report)

W.P.(C) No. 220/2015

(With appln.(s) for directions and Office Report)

T.P.(C) No. 921/2015

(With Office Report)

CONMT.PET.(C) No. 144/2014 In W.P.(C) No. 494/2012

(With appln.(s) for directions and appln.(s) for directions and Office Report)

CONMT.PET.(C) No. 470/2015 In W.P.(C) No. 494/2012

(With appln.(s) for exemption from filing O.T. and Office Report)

SLP(Crl) No. 2524/2014

(With Office Report)

CONMT.PET.(C) No. 674/2015 In W.P.(C) No. 829/2013

(With Office Report)

Date : 15/10/2015 These petitions/cases were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE M.Y. EQBAL

HON'BLE MR. JUSTICE C. NAGAPPAN

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) in

WP(C) No. 829/2013 Mr. Shyam Divan, Sr. Adv.

Mr. Pratap Venugopal, Adv.

Ms. Surekha Raman, Adv.

Mr. Anuj Sarma, Adv.

Ms. Niharika, Adv.

Ms. Titisha Mukherjee, Adv.

For M/s. K.J. John & Co., Adv.

WP(C) No. 37/2015 Mr. Gopal Subramaniam, Sr. Adv.

Ms. Aishwarya Bhati, Adv.

Mr. Talha Abdul Rahman, Adv.

Ms. Anusha Ramesh, Adv.

Mr. Prateek Joshi, Adv.

Ms. Neha Meena, Adv.

Mr. Anirban Sen, Adv.
 Mr. Adarsh tiwari, Adv.
 Mr. T. Gopal, Adv.
 Mr. Dinesh, Adv.

WP(C) no. 494/2012 Mr. Soli Sorabjee, Sr. Adv.
 Mr. Sanjay Kumar Yadav, Adv.
 Mr. Anish Kumar Gupta, Adv.
 Mr. Aditya Kumar Dubey, Adv.
 Mr. Gaurav Kumar, Adv.

TP(C) No. 151/2013 Mrs. Geetha Kovilan, Adv.
 Mr. P.R. Kovilan, Adv.
 Mr. V. Vasudevan, Adv.

TP(C) No. 921/2015 Ms. Pinky Anand, ASG
 Mr. S.S. Rawat, Adv.
 Mr. D.S. Mahra, Adv.

TC(C) No. 152/2013 Ms. Meenakshi Arora, Sr. Adv.
 Mr. Rahul Narayan, Adv.
 Mr. Mohit Singh, Adv.

Mr. Vijay Kumar, Adv.

Mr. Amit Meharia, Adv.
 Mr. Dhritiman Das, Adv.
 for M/s. Meharia & Company, Advs.

WP(C) no. 932/2013 Dr. Abhishek Atrey, Adv.
 CC(C) no. 470/2015 Mr. Sella Kumar, Adv.

Ms. Nitya Ramakrishnan, Adv.
 Mr. Shadan Farasat, Adv.
 Ms. Guneet Kaur, Adv.
 Ms. Rita Singh, Adv.
 Mr. Vaibhav Tiwari, Adv.

For Respondent(s)
 UOI

Mr. Mukul Rohatgi, AG
 Ms. Pinky Anand, ASG
 Mr. Ajay Sharma, Adv.
 Mr. Zoheb Hossain, Adv.
 Mr. Pravesh Thakur, Adv.
 Mr. Manish Vashistha, Adv.
 Ms. Diksha Rai Adv
 Ms. Sadhana Sandhu, Adv.
 Mr. Harpreet S. Sandu, Adv.
 Mr. Kaushal Yadav, Adv.
 Mr. A. Sen Gupta, Adv.

Devanshi Singh, Adv.
 Ms. Binu Tamta Adv.
 Mr. Meenesh Kr. Dubey, Adv.
 Mrs. Anil Katiyar, Adv.
 Mr. D. S. Mahra, Adv.
 Mr. Vakul Sharma, Adv.

Mr. J. M. Kalia, Adv.
 Mr. Balendu Shekhar, Adv.
 Ms. Somya Rathore, Adv.
 Ms. Kritika Sachdeva, Adv.
 Ms. Saudamini Sharma, Adv.
 Ms. Snibha Mehra, Adv.
 Mr. Karan Seth, Adv.
 Mr. Rishabh Jain, Adv.
 Mr. D. S. Mahra, Adv.

SEBI

Mr. Tushar Mehta, ASG
 Mr. Avinash Tripathi, Adv.
 Mr. Harish Pandey, Adv.

I.A.No.31/2015 in
 W.P. (C) NO.494/12

Dr. Lalit Bhasin, Adv.
 Mr. Nina Gupta, Adv.
 Mr. Mudit Sharma, Adv.
 Mr. Parvez Khan, Adv.
 Ms. Palak Chadha, Adv.

IA no. 11/2014

Mr. Gopal Sankaranarayanan, Adv.
 Ms. Savita Singh, Adv.
 Ms. Nidhi Bhalla, Adv.

State of Telangana

Mr. S. Udaya Kumar Sagar, Adv.
 Mr. Krishna Kumar Singh, Adv.

RBI

Mr. Jayant Bhushan, Sr. Adv.
 Mr. Kuldeep S. Parihar, Adv.
 Mr. H. S. Parihar, Adv.

State of Goa

Mr. Ninad Laud, Adv.
 Mr. Karan Mathur, Adv.
 Mr. Jayant Mohan, Adv.

State of Nagaland

Ms. K. Enatoli Sema, Adv.
 Mr. Edward Belho, Adv.
 Mr. Amit Kumar Singh, Adv.

A&N Administration

Mr. K. V. Jagdishvaran, Adv.
 Ms. G. Indira, Adv.

State of Assam

Mr. Navnit Kumar, Adv.
 Ms. Deepika Ghatwori, Adv.
 For M/s. Corporate Law Group, Advs.

State of HP Mr. J.S. Attri, Sr. Adv.
 Mr. Suryanarayana Singh, Sr. AAG
 Mr. Varinder Kumar Sharma, Adv.
 Mr. Sumeet Prakash, Adv.
 Ms. Pragati Neekhara, Adv.

State of Maharashtra Mr. Nachiketa Joshi, Adv.
 Mr. Nishant Katneshwarkar, Adv.

I.A.NO.5/2014 in Mr. Gopal Subramaniam, Sr. Adv.
 W.P. (C) NO. 833/2013 Mr. Priyadarshi Banerjee, Adv.
 Mr. Praveen Sehrawat, Adv.
 Mr. Saransh Jain, Adv.
 Mr. E.C. Agrawala, Adv.

State of Bihar Mr. Abhinav Mukerji, Adv.
 Ms. Bihu Sharma, Adv.

State of AP Mr. Guntur Prabhakar, Adv.
 Ms. Prerna Singh, Adv.

State of Uttarakhand Mr. Mukesh Verma, Adv.
 Mr. Jatinder K. Bhatia, Adv.

State of TN Mr. B. Balaji, Adv.
 Mr. R. Rakesh Sharma, Adv.
 Ms. R. Shase, Adv.

State of W.B. Mr. Soumitra G. Chaudhuri, Adv.
 Mr. Parijat Sinha, Adv.

State of Manipur Mr. Sapam Biswajit Meitei, Adv.
 Mr. Z.H. Isaac Haiding, Adv.
 Mr. S. Vijayanand Sharma, Adv.
 Mr. B. Khusbanshi, Adv.
 Mr. Ashok Kumar Singh, Adv.

State of Mizoram Mr. K.N. Madhusoodhanan, Adv.
 Mr. T.G.N. Nair, Adv.

State of Sikkim Ms. Aruna Mathur, Adv.
 Mr. Avnessh Arputham, Adv.
 Ms. Anuradha Arputham, Adv.
 For M/s. Arputham Aruna & Co., Adv.

ECI Mr. Ashok Desai, Sr. Adv.
 Mr. S.K. Mendiratta, Adv.
 Ms. Anu Bindra, Adv.
 Mr. Mohit D. Ram, Adv.

State of Tripura Mr. Gopal Singh, Adv.
Mr. Rituraj Biswas, Adv.
Ms. Varsha Poddar, Adv.

State of Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

UT Chandigarh Ms. Vimla Sinha, Adv.
Mr. Gopal Singh, Adv.

State of Kerala Mr. Jogy Scaria, Adv.
Ms. Beena Victor, Adv.

State of Punjab Mr. Sanchar Anand, AAG
Mr. Nishant Bishnoi, Adv.
Mr. Apoorv Singhal, Adv.
Mr. J.S. Chhabra, Adv.
Mr. Kuldeep Singh, Adv.

State of Jharkhand Mr. Ajit Kr. Sinha, Adv.
Mr. Tapes Kumar Singh, Adv.
Mr. Mohd. Waquas, Adv.

State of Chhatisgarh Mr. C.D. Singh, Adv.
Ms. Sylona Mohapatara, Adv.

Govt. of Puducherry Mr. V.G. Pragasam, Adv.
Mr. Prabu Ramasubramanian, Adv.

IA No. 5/2014 in
WP(C) no. 833/2013 Mr. Praveen Sehrawat, Adv.
Mr. Priyadarshi Banerjee, Adv.

Mr. Nikhil Nayyar, Adv.

State of Karnataka Ms. Anitha Shenoy, Adv.
Ms. Maitreyee Mishra, Adv.

State of WB Mr. Soumitra G. Chaudhuri, Adv.
Mr. Anip Sachthey, Adv.

State of Rajasthan Mr. Nitish Bagri, Adv.
Mr. Divyesh Maheshwari, Adv.
Mr. Ajay Choudhary, Adv.
Mr. Gaurav Chaudhary, Adv.

Ms. Mumtaz Bhalla, Adv.
Mr. Abhay Kumar, Adv.

Mr. Aniruddha P. Mayee, Adv.

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I.A.Nos.9 & 10/2013 Mr. Garvesh Kabra, Adv.
In WP(C) NO.494/12 Ms. Pooja Kabra, Adv.

State of Gujarat Ms. Hemantika Wahi, Adv.
Ms. Jesal Wahi, Adv.
Ms. Puja Singh, Adv.

Ms. C. K. Sucharita, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Dinkar Kalra, Adv.

Mr. Amit Sharma, Adv.

State of Haryana Mr. Anil Grover, AAG
Mr. Satish Kapoor, Adv.
Mr. Sanjay Kr. Visen, Adv.
Mr. Samar Vijay Singh, Adv.

State of U.P. Mr. Gaurav Bhatia, AAG
Mr. Adarsh Upadhyay, Adv.
Mr. Gaurav Srivastava, Adv.

State of M.P. Mr. Naveen Sharma, Adv.
Ms. Swati Bhushan Sharma, Adv.
Mr. Mishra Saurabh, Adv.

I.A.No.24 & 25/15 Mr. K. Ramamoorthy, Sr. Adv.
In WP(C) No.494/12 Mr. Dipak K. Nag, Adv.
Mr. Parmanand Gaur, Adv.
Ms. Apurva Upamanyu, Adv.

I.A.Nos.22-23/15
In W.P. (C) NO.494/2012 Mr. Sanjay Kapur, Adv.
Mr. Anmol Chandan, Adv.

Mr. Anoop J. Bhambhani, Sr. Adv.
Dr. Abhishek Attrey, Adv.
Mr. Ravindra Lakhande, Adv.
Mr. Sumit Rajora, Adv.

State of H.P. Mr. J.S. Attri, Sr. Adv.
Mr. Suryanarayana Singh, Sr. AAG
Mr. Varinder Kr. Sharma, Adv.
Mr. Chandra Nand Jha, Adv.

Intervenor Mr. Saikrishna Rajagopal, Adv.
Mr. Juhen George, Adv.
Mr. Arjun Rananathan, Adv.

Pen. Fun. Reg. & D.A. Mr. R. Sudhinder, Adv.
 Ms. Ekta Bhasin, Adv.
 Mr. Ashok Mathur, Adv.

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I.A. NO. 26/15 Mr. Shiv Mangal Sharma, Adv.
 Mr. Ankit Shah, Adv.
 Mr. Puneet Parihar, Adv.
 Mr. Shrey Kapoor, Adv.
 Mr. Nishit Agrawal, Adv.
 Ms. Anjali Chauhan, Adv.
 Mr. Suresh Narayan Singh, Adv.
 Mr. Saurabh Rajpal, Adv.
 Mr. Avanish Rathi, Adv.
 Mr. Vivek Ranjan Mohanty, Adv.
 Mr. Adhiraj Singh Rajawat, Adv.

Mr. Shanti Mukharjee, Adv.
 Mr. Manoj K. Mishra, Adv.
 Ms. Shreya Mukharjee, Adv.
 Mr. Sandeep Kr. Dwivedi, Adv.
 Mr. Shivam Verma Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Ranjan Mukherjee, Adv.

Ms. Anitha Shenoy, Adv.

Ms. Ruchi Kohli, Adv.

Mr. Dinkar Kalra, Adv.

Mr. Mohit D. Ram, Adv.

UFON hearing the counsel the Court made the following
 O R D E R

All the applications for intervention and
 impleadment be heard along with the respective main
 matters.

Application(s) filed by the Union of India/UIDAI
 is/are disposed of.

Since there is some urgency in the matter, we request the learned Chief Justice of India to constitute a Bench for final hearing of these matters at the earliest.

Ordered accordingly.

(G.V.Ramana)

AR-cum-PS

(Vinod Kulvi)

Asstt.Registrar

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 494 OF 2012

JUSTICE K.S. PUTTASWAMY .. PETITIONER(S)
(RETD) & ANR.

VERSUS

UNION OF INDIA & ORS. .. RESPONDENT(S)

T.C. (C) No. 151/2013

T.C. (C) No. 152/2013

WRIT PETITION(C) No. 829/2013

WRIT PETITION(C) No. 833/2013

WRIT PETITION(C) No. 932/2013

TRANSFER PETITION(C) No. 312/2014

TRANSFER PETITION(C) No. 313/2014

WRIT PETITION(C) No. 37/2015

WRIT PETITION(C) No. 220/2015

TRANSFER PETITION(C) No. 921/2015

CONMT. PET. (C) No. 144/2014

In

WRIT PETITION(C) No. 494/2012

CONMT. PET. (C) No. 470/2015

In

WRIT PETITION (C) No. 494/2012

SPECIAL LEAVE PETITION (CRL.) No. 2524/2014

CONMT. PET. (C) No. 674/2015

In

WRIT PETITION (C) No. 829/2013

O R D E R

1. This Bench is constituted only for the purpose of deciding the applications filed by the Union of India seeking certain clarification/modification in the orders passed by a Bench of three learned Judges of this Court dated 11.08.2015.

2. We have heard Shri Mukul Rohtagi, learned Attorney General for India, Shri Shyam Divan, Shri Soli Sorabjee and Shri Gopal Subramaniam, learned senior counsels in extenso.

3. After hearing the learned Attorney General for India and other learned senior counsels, we are of the view that in paragraph 3 of the Order dated 11.08.2015, if we add, apart from the other two Schemes, namely, P.D.S. Scheme and the L.P.G. Distribution Scheme, the Schemes like The Mahatma Gandhi National Rural Employment Guarantee Scheme

(MGNREGS), National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions) Prime Minister's Jan Dhan Yojana (PMJDY) and Employees' Provident Fund Organisation (EPFO) for the present, it would not dilute earlier order passed by this Court. Therefore, we now include the aforesaid Schemes apart from the other two Schemes that this Court has permitted in its earlier order dated 11.08.2015.

4. We impress upon the Union of India that it shall strictly follow all the earlier orders passed by this Court commencing from 23.09.2013.

5. We will also make it clear that the Aadhaar card Scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other.

6. All the applications for intervention and impleadment be heard along with the respective main matters.

7. Application(s) for modification/ clarification filed by Union of India/UIDAI is/are disposed of.

8. Since there is some urgency in the matter, we request the learned Chief Justice of India to constitute a Bench for final hearing of these matters at the earliest.

Ordered accordingly.

.....CJI
[H.L. DATTU]

.....J.
[M.Y. EQBAL]

.....J.
[C. NAGAPPAN]

.....J.
[ARUN MISHRA]

.....J.
[AMITAVA ROY]

NEW DELHI,
OCTOBER 15, 2015.

The Gazette Of India

EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY

No. 19] NEW DELHI, SATURDAY, MARCH 26, 2016/CHAITRA 6, 1938 (SAKA)

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 26th March, 2016/Chaitra 6, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 2016, and is hereby published for general information:—

THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016

NO. 18 OF 2016

[25th March, 2016]

An Act to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it shall also apply to any offence or contravention there under committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may, be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. In this Act, unless the context otherwise requires,—

(a) "Aadhaar number" means an identification number issued to an individual under sub-section (3) of section 3;

(b) "Aadhaar number holder" means an individual who has been issued an Aadhaar number under this Act;

(c) "authentication" means the process by which the Aadhaar number alongwith demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it;

(d) "authentication record" means the record of the time of authentication and identity of the requesting entity and the response provided by the Authority thereto;

(e) "Authority" means the Unique Identification Authority of India established under sub-section (1) of section 11;

(f) "benefit" means any advantage, gift, reward, relief, or payment, in cash or kind, provided to an individual or a group of individuals and includes such other benefits as may be notified by the Central Government;

(g) "biometric information" means photograph, finger print, Iris scan or such other biological attributes of an individual as may be specified by regulations;

(h) "Central Identities Data Repository" means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(i) "Chairperson" means the Chairperson of the Authority appointed under section 12;

(j) "core biometric information" means finger print, Iris scan, or such other biological attribute of an individual as may be specified by regulations;

(k) "demographic information" includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

(l) "enrolling agency" means an agency appointed by the Authority or a Registrar, as the case may be, for collecting demographic and biometric information of individuals under this Act;

(m) "enrolment" means the process, as may be specified by regulations, to collect demographic and biometric information from individuals by the enrolling agencies for the purpose of issuing Aadhaar numbers to such individuals under this Act;

(n) "identity information" in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

(o) "Member" includes the Chairperson and Member of the Authority appointed under section 12;

(p) "notification" means a notification published in the Official Gazette and the expression "notified" with its cognate meanings and grammatical variations shall be construed accordingly;

(q) "prescribed" means prescribed by rules made by the Central Government under this Act;

(r) "records of entitlement" means records of benefits, subsidies or services provided to, or availed by, any individual under any programme;

(s) "Registrar" means any entity authorised or recognised by the Authority for the purpose of enrolling individuals under this Act;

(t) "regulations" means the regulations made by the Authority under this Act;

(u) "requesting entity" means an agency or person that submits the Aadhaar number, and demographic information or biometric information, of an individual to the Central Identities Data Repository for authentication;

(v) "resident" means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment;

(w) "service" means any provision, facility, utility or any other assistance provided in any form to an individual or a group of individuals and includes such other services as may be notified by the Central Government;

(x) "subsidy" means any form of aid, support, grant, subvention, or appropriation, in cash or kind, to an individual or a group of individuals and includes such other subsidies as may be notified by the Central Government.

CHAPTER II ENROLMENT

3.(1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:—

(a) the manner in which the information shall be used;

(b) the nature of recipients with whom the information is intended to be shared during authentication; and

(c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.

4. (1) An Aadhaar number, issued to an individual shall not be re-assigned to any other individual.

(2) An Aadhaar number shall be a random number and bear no relation to the attributes or identity of the Aadhaar number holder.

(3) An Aadhaar number, in physical or electronic form subject to authentication and other conditions, as may be specified by regulations, may be accepted as proof of identity of the Aadhaar number holder for any purpose.

Explanation.— For the purposes of this sub-section, the expression "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.

5. The Authority shall take special measures to issue Aadhaar number to women, children, senior citizens, persons with disability, unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

6. The Authority may require Aadhaar number holders, to update their demographic information and biometric information, from time to time, in such manner as may be specified by

regulations, so as to ensure continued accuracy of their information in the Central Identities Data Repository.

CHAPTER III AUTHENTICATION

7. The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.

8. (1) The Authority shall perform authentication of the Aadhaar number of an Aadhaar number holder submitted by any requesting entity, in relation to his biometric information or demographic information, subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

(2) A requesting entity shall—

(a) unless otherwise provided in this Act, obtain the consent of an individual before collecting his identity information for the purposes of authentication in such manner as may be specified by regulations; and

(b) ensure that the identity information of an individual is only used for submission to the Central Identities Data Repository for authentication.

(3) A requesting entity shall inform, in such manner as may be specified by regulations, the individual submitting his identity information for authentication, the following details with respect to authentication, namely:—

(a) the nature of information that may be shared upon authentication;

(b) the uses to which the information received during authentication may be put by the requesting entity; and

(c) alternatives to submission of identity information to the requesting entity.

(4) The Authority shall respond to an authentication query with a positive, negative or any other appropriate response sharing such identity information excluding any core biometric information.

9. The Aadhaar number or the authentication thereof shall not, by itself, confer any right of, or be proof of, citizenship or domicile in respect of an Aadhaar number holder.

10. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

CHAPTER IV UNIQUE IDENTIFICATION AUTHORITY OF INDIA

11. (1) The Central Government shall, by notification, establish an Authority to be known as the Unique Identification Authority of India to be responsible for the processes of enrolment and authentication and perform such other functions assigned to it under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in New Delhi.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

12. The Authority shall consist of a Chairperson, appointed on part-time or full-time basis, two part-time Members, and the chief executive officer who shall be Member-Secretary of the Authority, to be appointed by the Central Government.

13. The Chairperson and Members of the Authority shall be persons of ability and integrity having experience and knowledge of at least ten years in matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Chairperson or Member after he has attained the age of sixty-five years.

(2) The Chairperson and every Member shall, before entering office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed.

15. (1) The Central Government may remove from office, the Chairperson, or a Member, who—

(a) is, or at any time has been adjudged as insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson or a Member shall not be removed under clause (b), clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

16. The Chairperson or a Member on ceasing to hold office for any reason, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or be connected with the management of any organisation, company or any other entity which has been associated with any work done or contracted out by the Authority, whether directly or indirectly, during his tenure as Chairperson or Member, as the case may be, for a period of three years from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in clause (45) of section 2 of the Companies Act, 2013;

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; or

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office.

17. The Chairperson shall preside over the meetings of the Authority, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

18. (1) There shall be a chief executive officer of the Authority, not below the rank of Additional Secretary to the Government of India, to be appointed by the Central Government.

(2) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

(a) the day-to-day administration of the Authority;

(b) implementing the work programmes and decisions adopted by the Authority;

(c) drawing up of proposal for the Authority's decisions and work programmes;

(d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; and

(e) performing such other functions, or exercising such other powers, as may be specified by regulations.

(3) Every year, the chief executive officer shall submit to the Authority for approval—

(a) a general report covering all the activities of the Authority in the previous year;

(b) programmes of work;

(c) the annual accounts for the previous year; and

(d) the budget for the coming year.

(4) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

19. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including quorum at such meetings, as may be specified by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the presiding Member shall have a casting vote.

(4) All decisions of the Authority shall be signed by the Chairperson or any other Member or the Member-Secretary authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

20. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority;

(b) any defect in the appointment of a person as Chairperson or Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

21. (1) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Authority in the discharge of its functions.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

22. On and from the establishment of the Authority—

(a) all the assets and liabilities of the Unique Identification Authority of India, established vide notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

Explanation.—The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the said Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing Aadhaar numbers to individuals and perform authentication thereof under this Act.

(2) Without prejudice to sub-section (1), the powers and functions of the Authority, inter alia, include—

(a) specifying, by regulations, demographic information and biometric information required for enrolment and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an Aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning Aadhaar numbers to individuals;

(e) performing authentication of Aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an Aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specifying the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used;

(i) specifying, by regulations, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of Aadhaar number holders, subject to the provisions of this Act;

(l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulations, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulations, the conditions and procedures for issuance of new Aadhaar number to existing Aadhaar number holder;

(o) levying and collecting the fees or authorising the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appointing such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promoting research and development for advancement in biometrics and related areas, including usage of Aadhaar numbers through appropriate mechanisms;

(r) evolving of, and specifying, by regulations, policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanism for redressal of grievances of individuals, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or delivery of Aadhaar numbers to individuals or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto,

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by contract.

CHAPTER V GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

- (a) a description of all the activities of the Authority for the previous years;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI PROTECTION OF INFORMATION 28.

(1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2), the Authority shall—

- (a) adopt and implement appropriate technical and organisational security measures;
- (b) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in place appropriate technical and organisational security measures for the information; and
- (c) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:

Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

29. (1) No core biometric information, collected or created under this Act, shall be—

(a) shared with anyone for any reason whatsoever; or

(b) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be—

(a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or

(b) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

30. The biometric information collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be "electronic record" and "sensitive personal data or information", and the provisions contained in the Information Technology Act, 2000 and the rules made thereunder shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act.

Explanation — For the purposes of this section, the expressions—

(a) "electronic form" shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(b) "electronic record" shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(c) "sensitive personal data or information" shall have the same meaning as assigned to it in clause (iii) of the Explanation to section 43A of the Information Technology Act, 2000.

31. (1) In case any demographic information of an Aadhaar number holder is found incorrect or changes subsequently, the Aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(2) In case any biometric information of Aadhaar number holder is lost or changes subsequently for any reason, the Aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such Aadhaar number holder and intimate such alteration to the concerned Aadhaar number holder.

(4) No identity information in the Central Identities Data Repository shall be altered except in the manner provided in this Act or regulations made in this behalf.

32. (1) The Authority shall maintain authentication records in such manner and for such period as may be specified by regulations.

(2) Every Aadhaar number holder shall be entitled to obtain his authentication record in such manner as may be specified by regulations.

(3) The Authority shall not, either by itself or through any entity under its control, collect, keep, or maintain any information about the purpose of authentication.

33. (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a District Judge:

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority.

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in pursuance of a direction of an officer not below the rank of Joint Secretary to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee.

CHAPTER VII OFFENCES AND PENALTIES

34. Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

35. Whoever, with the intention of causing harm or mischief to an Aadhaar number holder, or with the intention of appropriating the identity of an Aadhaar number holder changes or attempts to change any demographic information or biometric information of an Aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

36. Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

37. Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act or regulations made thereunder or in contravention of any agreement or arrangement entered into pursuant to the provisions of this Act, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

38. Whoever, not being authorised by the Authority, intentionally,—

- (a) accesses or secures access to the Central Identities Data Repository;
- (b) downloads, copies or extracts any data from the Central Identities Data Repository or stored in any removable storage medium;
- (c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository;
- (d) damages or causes to be damaged the data in the Central Identities Data Repository;
- (e) disrupts or causes disruption of the access to the Central Identities Data Repository;
- (g) reveals any information in contravention of sub-section (5) of section 28, or shares, uses or displays information in contravention of section 29 or assists any person in any of the aforementioned acts;
- (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or affects it injuriously by any means; or
- (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage,

shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which shall not be less than ten lakh rupees.

Explanation.—For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2008, and the expression “computer source code” shall have the meaning assigned to it in the Explanation to section 65 of the said Act.

39. Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to Aadhaar number holder or discovering any information thereof, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to ten thousand rupees.

40. Whoever, being a requesting entity, uses the identity information of an individual in contravention of sub-section (3) of section 8, shall be punishable with imprisonment which may

extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

41. Whoever, being an enrolling agency or a requesting entity, fails to comply with the requirements of sub-section (2) of section 3 or sub-section (3) of section 3, shall be punishable with imprisonment which may extend to one year or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

42. Whoever commits an offence under this Act or any rules or regulations made thereunder for which no specific penalty is provided elsewhere than this section, shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees, or with both.

43. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

44. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves any data in the Central Identities Data Repository.

45. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act.

46. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

47. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII
MISCELLANEOUS

48. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that a public emergency exists,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1), superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

50. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, as the Central Government may give, in writing to it, from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section:

Provided further that nothing in this section shall empower the Central Government to issue directions pertaining to technical or administrative matters undertaken by the Authority.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

51. The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 54) as it may deem necessary.

52. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

53. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (4) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17;

(d) the other powers and functions of the Authority under clause (t) of sub-section (2) of section 23;

(e) the form of annual statement of accounts to be prepared by Authority under sub-section (1) of section 26;

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

54. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (g) and the demographic information under clause (k), and the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (m) of section 2;

(b) the manner of verifying the demographic information and biometric information for issue of Aadhaar number under sub-section (3) of section 3; (c) the conditions for accepting an Aadhaar number as proof of identity of the Aadhaar number holder under sub-section (3) of section 4;

(d) the other categories of individuals under section 5 for whom the Authority shall take special measures for allotment of Aadhaar number;

(e) the manner of updating biometric information and demographic information under section 6;

(f) the procedure for authentication of the Aadhaar number under section 8;

(g) the other functions to be performed by the Central Identities Data Repository under section 10;

(h) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it, including the quorum, under sub-section (1) of section 19;

(i) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (2) of section 21;

(j) the demographic information and biometric information under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(k) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(l) the manner of omitting and deactivating an Aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

(m) the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services and other purposes for which Aadhaar numbers may be used under clause (h) of sub-section (2) of section 23;

(n) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(o) the manner of sharing information of Aadhaar number holder under clause (k) of sub-section (2) of section 23;

(p) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(q) the procedure for issuance of new Aadhaar number to existing Aadhaar number holder under clause (n) of sub-section (2) of section 23;

(r) manner of authorising Registrars, enrolling agencies or other service providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(s) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(t) the manner of accessing the identity information by the Aadhaar number holder under the proviso to sub-section (5) of section 28;

(u) the manner of sharing the identity information, other than core biometric information, collected or created under this Act under sub-section (2) of section 29;

(v) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(w) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1), and the manner of obtaining, by the Aadhaar number holder, the authentication records under sub-section (2) of section 32;

(x) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

55. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

56. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

57. Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect: Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under section 8 and Chapter VI.

58. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

59. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin. 1, dated the 28th January, 2009, or by the Department of Electronics and Information Technology under the Cabinet Secretariat Notification bearing notification number S.O. 2452(E), dated the 12th September, 2015, as the case may be, shall be deemed to have been validly done or taken under this Act.

DR. REETA VASISHTA,
Additional Secy. to the Govt. of India.

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Annexure P-5

(TO BE PUBLISHED IN PART-I, SECTION-2 OF THE
GAZETTE OF INDIA)

GOVERNMENT OF INDIA

PLANNING COMMISSION

Yojana Bhawan Sansad Marg,
New Delhi,

28th January, 2009

NOTIFICATION

No. A-43011/02/2009-Admn.I: In pursuance of Empowered Group of Ministers', fourth meeting, dated 4th November 2008, the Unique Identification Authority of India (UIDAI) is hereby constituted and notified as an attached office under aegis of Planning Commission with following terms of reference and initial core staff composition:-

COMPOSITION:

2. UIDAI shall be set up with an initial core team of 115 officials and staff as per details given below:

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Pcst	Level	No. of Posts
UID Authority of India		
Director General & Mission Director	Additional Secretary Govt of India	1
Deputy Director General (DDG)	Joint Secretary, Govt of India	1
Assistant Director General (ADG)	Director, Govt. of India	1
Support Staff		
PS	PS	3
Peon	Peon	2
Driver	Driver	2
Total Manpower		10
State/UT Units of UIDAI		
State/UT UID Commissioner	Joint Secretary, Govt. of India	35
Support Staff		
PS	PS	35
Peon	Peon	35
Total Manpower		105
GRAND TOTAL		115

Role and Responsibilities of UIDAI

3. UIDAI shall have the responsibility to lay down plan and policies to implement UID Scheme, shall own and operate UID database and be responsible for its . updation and maintenance on an ongoing basis.

4. Implementation of UID scheme will entail, infer alia, following responsibilities, being undertaken by UIDAI:

- Generate and assign UID to residents
- Define mechanisms and processes for interlinking UID with partner databases on a continuous basis
- Frame policies and administrative procedures related to updation mechanism and maintenance of UID database on an ongoing basis
- Co-ordinate / liaise with implementation partners and user agencies as also define conflict resolution mechanism
- Define usage and applicability of UID for delivery of various services
- Operate and manage all stages of UID lifecycle

- Adopt phased approach for implementation of UM specially with reference to approved timelines
- Take necessary steps to ensure collation of NPR with UID (as per approved strategy)
- Ensure ways for leveraging field level institutions appropriately such as Pills in establishing linkages across partner agencies as well as its validation while cross linking with other designated agencies
- Evolve strategy for awareness and communication of UID and its usage
- Identify new partner /user agencies
- Issue necessary instructions to agencies that undertake creation of databases, to ensure standardization of data elements that are collected and digitized and enable collation and correlation with UID and its partner databases
- Frame policies and administrative procedures related to hiring / retention / mobilization of resources, outsourcing of various tasks and

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budgeting & planning for UIDAI and all State units under UIDAI.

5. Planning Commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support. Planning commission would provide initial office and IT infrastructure at central level.

6. Government housing will be provided to officers of UIDAI appointed on deputation from general pool of Department of Urban Development.

(Dr. Subba Pani)
Secretary to the Government of India

The General Manager
Govt. of India Press
Faridabad

Copy to:

1. Secretary to the President, Rashtrapati Bhavan, New Delhi
2. Secretary to the Vice-President, Maulana Azad Road, New Delhi
3. Cabinet Secretary, Rashtrapati Bhavan, New Delhi
4. Principal Secretary to the Prime Minister, South Block, New Delhi
5. Private Secretary to the Deputy Chairman, Planning Commission
6. All Ministers/Departments of Govt. of India

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7. Chief Secretaries of all States/Union Territories
8. Secretary General, Rajya Sabha Secretariat, New Delhi
9. Secretary General, Lok Sabha Secretariat, New Delhi
10. Pr. Adviser (Admn & PCPS & FA/Adviser (C & I/Director (GA)/DS (Admn.)
11. Pay & Accounts Officer, Planning Commission
12. Drawing & Disbursing Officer, Planning Commission
13. Accounts —I Section, Planning Commission.

Police Scotland self regulation on biometric data must end

Civil liberties groups have backed the conclusions of an investigation into Police Scotland calling for changes to the way biometric data such as photographs are handled by Scottish law enforcement agencies.

A recent HM Inspectorate of Constabulary in Scotland (HMICS) report said the Scottish Government should act to bring the rules in Scotland into line with England and Wales where statutory guidance is already in place to govern how photographs of people are used and stored.

HMICS also argued for the creation of a Scottish biometrics commissioner to provide independent oversight and deal with new ethical issues that the authorities face as technology, such as automatic facial recognition software, develops.

At present, there are few rules governing how Police Scotland uses photographs of Scottish citizens. Police Scotland can currently store photographs of people living in Scotland for up to twelve years, even if they are never found guilty of a crime.

Pol Clementsmith of the Open Rights Group Scotland welcomed the HMICS report and said Scotland needs its own independent biometrics commissioner to protect the rights of citizens, as new technologies become more widely used.

He said: "This report highlights some disconcerting facts about how facial recognition technology could potentially be misused by Police Scotland.

"Whilst there is a statutory framework in Scotland to deal with how fingerprints and DNA are regulated and retained there are currently no laws in place to deal with biometric images obtained using facial recognition. Yet this technology continues to be used, every day, without proper legislative oversight."

"This is unacceptable, especially in light of the intrusive nature of this powerful technology which will no doubt become the staple of future law enforcement.

"More importantly, unlike our neighbours in the rest of the UK, Scotland does not have its own Biometrics Commissioner in post to provide a modicum of protection to Scottish citizens."

Mr Clementsmith also highlighted the lengthy periods that Police Scotland currently retain images for.

"We also have concerns about the retention by the police of thousands of images of Scottish citizens for up to 12 years," he added.

"This not only includes people who were suspected of a crime - or individuals who have been charged with a crime but found not guilty - but images of folk, like you and members of your family, who have never, at any time, been in trouble with the authorities."

HMICS confirmed that images of at least 334,594 people held by Police Scotland have been uploaded to the Police National Database, which law enforcement agencies throughout the UK have access to.

Its investigation follows growing concerns over the increasing use of technologies that can automatically identify and track people as they move around, either using facial recognition technology, or other biometric profiling methods, such as gait analysis.

The Ferret recently highlighted concerns that there are currently few rules in place that govern the use of a new £12.6m CCTV system in Glasgow that has the ability to automatically track the movements of people as they walk around the city.

Richard Halley, Chair of Scotland Against Criminalising Communities (SACC), also backed the HMICS recommendations. He said: "SACC supports the HMICS recommendations.

"In particular, we strongly support the recommendations for the creation of a Biometrics Commissioner for Scotland and for a statutory code of practice for the use of biometric data in Scotland."

Alison McInnes, Justice Spokesperson for the Scottish Liberal Democrats said that it was time for the law to

be changed and that Police self-regulation must come to an end.

She said: "Fingerprint and DNA evidence have been mistaken in the past, leading to innocent people being falsely identified and miscarriages of justice. We warned that without a robust legal framework the same could occur with the use of our images.

"Facial searches have the potential to be a useful policing tool in detecting crime and making our streets safer. But, like fingerprints and DNA it is essential that its use is properly managed.

"The law needs to play catch-up. It is clear that an independent commissioner, an end to self-regulation and a clear code of practice, as recommended by HMICS, are now needed to help protect people's privacy and civil liberties."

Commenting on the release of the HMICS report HM Inspector Derek Penman emphasised that new and emerging technologies mean that clear rules and safeguards are needed to "future proof" their use.

He said: "Our review has highlighted opportunities to strengthen the existing legislation and introduce independent oversight of the police use of fingerprints, DNA and photographs of people taken into custody in Scotland.

"We believe that a Code of Practice and new legislation would provide greater clarity and safeguards for the public as well as clear and transparent operational guidance to police officers and staff.

He added: "New and emerging technologies will increase the value and potential of biometric data and we believe that the introduction of a Code of Practice overseen by a Commissioner could safeguard and future proof its use."

A Scottish Government spokesperson said: "The Scottish Government welcomes this review by HMICS. We will now reflect on the report and consider with stakeholders how best to implement the recommendations."

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GUARDIAN

Hacker fakes German minister's fingerprints using photos of her hands

Jan Krissler used high resolution photos, including one from a government press office, to successfully recreate the fingerprints of Germany's defence minister

Alex Hern

Tuesday 30 December 2014 11.43 GMT

It's an old cliché of security researchers: fingerprints might appear more secure than passwords. But if your password gets stolen, you can change it to a new one; what happens when your fingerprint gets copied?

That's no longer an abstract fear: a speaker at the Chaos Communication Congress, an annual meeting of hackers in Germany, demonstrated his method for faking fingerprints using only a few high-definition photographs of his target, German defence minister Ursula von der Leyen.

Jan Krissler, known in hacker circles as Starbug, used commercial software called VeriFinger and several close-range photos of von der Leyen, including one gleaned from a press release issued by her own office

and another he took himself from three meters away, to reverse-engineer the fingerprint.

"After this talk, politicians will presumably wear gloves when talking in public," he joked.

Also reported at the conference was another security hole seemingly straight out of science-fiction: a so-called "corneal keylogger". The idea behind the attack is simple. A hacker may have access to a user's phone camera, but not anything else. How to go from there to stealing all their passwords?

One way, demonstrated on stage, is to read what they're typing by analysing photographs of the reflections in their eyes. Smartphone cameras, even front-facing ones, are now high-resolution enough that such an attack is possible.

Starbug is no stranger to taking on biometric security. In a high profile stunt in 2013, he spoofed Apple's TouchID sensors within 24 hours of the release of the iPhone 5S. Using a smudge on the screen of an iPhone, he printed a dummy finger using wood glue and

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sprayable graphene, which successfully unlocked a phone registered to someone else's thumb.

For that hack, he had to have physical access to the phone he stole the fingerprint from, in order to get a high resolution scan of the print. His latest demonstration suggests that it may be possible to unlock a phone using a fingerprint stolen without ever touching a person or their property – although actually getting hold of the phone is still needed for the last stage, of actually unlocking it.

The increasing number of successful attacks against biometric identification has led to some security researchers advising that people change the way they think about security measures such as fingerprints and photo ID. Rather than treating them as a replacement for passwords, they should instead be used as a second factor of authentication, or even as something similar to a username: a publicly known piece of information which must be linked to a password before a user can log in.

As the ACLU's Jay Stanley told the Washington Post, "Biometrics are not secrets... Ideally, they're unique to

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each individual, but that's not the same thing as being a secret."

And Starbug agrees, telling Zeit in 2013 that "I consider my password safer than my fingerprint... My password is in my head, and if I'm careful when typing, I remain the only one who knows it."

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THE HANS INDIA

Fake applicant gets TSMFC loan

THE HANS INDIA | Feb 25, 2016 | 12:44 AM IST

It is believed that there might be several of such cases and there is an immediate need for a thorough enquiry into the activities of corporation



Hyderabad: A businessman who took Rs 1 lakh loan from State Minority Finance Corporation (SMFC) at the cost of another applicant is likely to be hooked on charges of cheating. The issue came to light after the genuine applicant tries to find out the reason for repeated rejection of his loan application by the corporation.

The victim, Sheik Imtiaz, a resident of Saroornagar, had applied for a loan under the State government's bank-linked subsidy scheme for minorities in 2014-15. He was denied the loan application acknowledgement by the TSMFC, despite repeated attempts to convince officials about his application.

He made another attempt this year after the State government extended the last date of application to February 29. He was surprised to know that even, this time, his application was rejected. Upon enquiry, he found that his application was cancelled, as he was a beneficiary in 2014-15 and had received Rs 1 lakh loan from Andhra Bank, under the scheme.

When Imtiaz came across the details, he was shocked to find out that another beneficiary had availed the loan using his Aadhaar card number 701251520783. As per the details, Syed Ghouse Pasha, a resident of Musheerabad (ration card number WAP167663880568) used the Aadhaar number of Imtiaz.

However, officials refused answers on how Imtiaz's Aadhaar card was used to avail the loan. Interestingly, the loan was sanctioned to Pasha within two days of

his application. It is believed that there might be several of such cases and there is an immediate need for a thorough enquiry into the activities of the corporation to find out what exactly transpiring in the corporation.

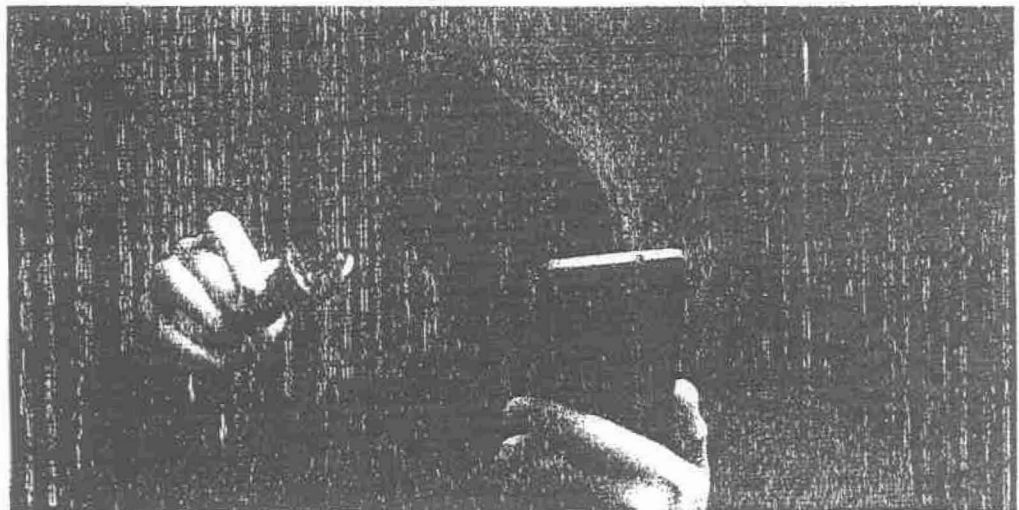
However, the officials of TSMFC blamed the Mee-Seva centre, where the Aadhaar card of Imtiaz was processed and advised him to recall the Mee-Seva centre that he had used to get his card. After unrelenting efforts by Imtiaz, the officials have agreed to lodge a formal complaint with the police against Syed Ghouse Pasha at Abids police station.

"We will lodge a complaint and initiate action to recover the loan amount. This is the only instance that has come to our notice. We will also verify if there are any other cases," said B Shafiullah, TSMFC Managing Director.

Last updated: March 24, 2016 at 17:34 pm

Digital Wallet Loophole Inspires 5 Engineering Students To Steal Rs 8.6 Crore In Kolkata

Mohul Ghosh



We have repeatedly stated that using e-wallets of digital wallets in India is still insecure and full of security loopholes which can be exploited by hackers and anti-social elements, anytime. Money from such e-wallets are vanished without any trace, and unauthorized pizza payments are made all of a sudden.

In yet another instance of such e-robbery which should be a wake up call for banks and e-wallet firms, 5 engineering students from Kolkata were able to siphon

off Rs 8.6 crore using a simple loophole in one of the digital wallets launched by a private bank.

This e-robbery continued for several months, before bank officials discovered this heist and promptly informed the police who arrested these students.

The Loophole & The Rs 8.6 Crore E-Robbery

Last December, one of the prominent private banks launched their own digital wallets, and enabled wallet-to-wallet cash transfer facility for their customers.

However, the bank wasn't aware of a security loophole in this whole process: In case the recipient's Internet connection is switched off, then the money is not debited from the sender's bank account; but the bank pays the money.

Say Jack is sending Rs 1000 to Alice using this digital wallet. Now, Alice's Internet connection on mobile is switched off when Jack sends the money. In that case, when Alice switches on her mobile, the bank will pay Rs 1000 to her and no cash would be debited from Jack's account.

This major security flaw was caught by an engineering student called Jewel Rana, who formed a gang of 5 other students, and then started exploiting it for quick cash. Within 4 months, Rs 8.6 crore were robbed from the bank.

Fault Lies In Our System As Well

While investigating the case, police were stunned to find that these students were able to procure thousands of fake SIM cards, which were used to open fake bank accounts, then digital wallets to siphon off the money.

From the border district of Murshidabad, Jewel and his gang were able to get thousands of pre-activated SIM cards, which were used to open 2000 bank accounts, and which in turn were used to open 18,000 digital wallets. These wallets were then used to siphon off money from the bank.

Joint CP (crime) Debashish Boral said, "Jewel was known to Habibur Rehman, a dealer of a mobile service provider in Murshidabad. While Jewel was the brain of the gang with the college students arranging the

wallet transactions, the unaccounted and unverified SIM cards were all arranged by Habibur's men,"

Innocent villagers from the nearby cities were given incentives to open bank account using the fake SIM cards; and these formed the base of the whole scam.

We had earlier reported how Delhi Police wants to impose a fine of Rs 1 crore on those telecom firms which doesn't verify their customers before giving SIM cards; and this is again one classic example of how fake identity and money can do wonders in India.

Some other examples of scams and e-robbery using digital wallets:

- Aadhar Card and Digital Wallets used to scam people
- Digital Wallets being used to transfer stolen money
- Bank officials steal money from Axis Bank, SBI digital wallets

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ANNEXURE - P/6

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**STANDING COMMITTEE ON FINANCE
(2011-12)**

FIFTEENTH LOK SABHA

Ministry of Planning

**THE NATIONAL IDENTIFICATION AUTHORITY OF INDIA
BILL, 2010**

FORTY-SECOND REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2011/ Agrahyana¹, 1933 (Saka)

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FORTY-SECOND REPORT
STANDING COMMITTEE ON FINANCE
(2011-2012)
(FIFTEENTH LOK SABHA)

Ministry of Planning

THE NATIONAL IDENTIFICATION AUTHORITY OF
INDIA BILL, 2010

Presented to Lok Sabha on 13 December, 2011

Laid in Rajya Sabha on 13 December, 2011



LOK SABHA SECRETARIAT
NEW DELHI

December, 2011/ Agrahyana, 1933 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2011-2012

Shri Yashwant Sinha - Chairman

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MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi Chanabasappa
3. Shri Jayant Chaudhary
4. Shri Harishchandra Deoram Chavan
5. Shri Bhakta Charan Das
6. Shri Gurudas Dasgupta
7. Shri Nishikant Dubey
8. Shri Chandrakant Khaire
9. Shri Bhartruhari Mahtab
10. Shri Anjan Kumar Yadav M.
11. Shri Prem Das Rai
12. Dr. Kavuru Sambasiva Rao
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15. Shri Sarvey Sathyanarayana
16. Shri G.M. Siddeswara
17. Shri N. Dharam Singh
18. Shri Yashvir Singh
19. Shri Manicka Tagore
20. Shri R. Thamara'selvan
21. Dr. M. Thambidurai

RAJYA SABHA

22. Shri S.S. Ahluwalia
23. Shri Raashid Alvi
24. Shri Vijay Jawaharlal Darda
25. Shri Piyush Goyal
26. Shri Moinul Hassan
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28. Shri Mahendra Mohan
29. Dr. Mahendra Prasad
30. Dr. K.V.P. Ramachandra Rao
31. Shri Yogendra P. Trivedi

SECRETARIAT

- | | | |
|---------------------------------|---|------------------|
| 1. Shri A.K. Singh | - | Joint Secretary |
| 2. Shri R.K. Jain | - | Director |
| 3. Shri Ramkumar Suryanarayanan | - | Deputy Secretary |

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INTRODUCTION

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I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Forty-Second Report on ~~The~~ National Identification Authority of India Bill, 2010.

2. The National Identification Authority of India Bill, 2010 introduced in Rajya Sabha on 3 December, 2010 was referred to the Committee on 10 December, 2010 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained background note, detailed note and written information on various provisions contained in the aforesaid Bill from the Ministry of Planning.

4. Written suggestions / views / memoranda on the provisions of the Bill were received from various institutions / experts / individuals.

5. The Committee took briefing / oral evidence of the representatives of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) at their sitting held on 11 February, 2011.

6. At the sitting held on 29 June, 2011, the Committee heard the views of the representatives of (i) the National Human Rights Commission (NHRC), and (ii) the Indian Banks Association (IBA), and Dr. Reetika Khera, Visitor, Delhi School of Economics, New Delhi. The Committee also heard the views of the representatives of the Confederation of Indian Industry (CII), and experts namely, Dr. Usha Ramanathan, Independent Law Researcher, New Delhi, Dr. R. Ramakumar, Associate Professor, the Tata Institute of Social Sciences, Mumbai and Shri Gopal Krishna, Member, Citizen Forum for Liberties, New Delhi at the sitting held on 29 July, 2011.

7. The Committee, at their sitting held on 8 December, 2011 considered and adopted this Report.

8. The Committee wish to express their thanks to the officials of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) for furnishing the requisite material and information which were desired in connection with the examination of the Bill. The Committee would also thank all the institutions and experts for their valuable suggestions on the Bill.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
9 December, 2011
20 Aghrayana, 1933(Saka)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance

REPORT

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PART - I

A. Introduction

1. With a view to ensure that the benefits of centrally sponsored schemes reaches to right person and not misused, the Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification involves collection of demographic and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The Central Government, for the purpose of issuing unique identification numbers, constituted the Unique Identification Authority of India (UIDAI) on 28th January 2009, being executive in nature, which is at present functioning under the Planning Commission.

2. It has been observed and assessed by the Government that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository (CIDR), (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purpose of issue of unique identification numbers, which should be addressed by law and attract penalties.

3. In view of the foregoing paragraph, the Government has felt it necessary to make the said Authority as a statutory authority for carrying out the functions of issuing unique identification numbers to the residents in India and to certain other persons in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India (NIDAI) for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access

to benefits and services to which they are entitled and for matters connected therewith or incidental thereto.

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B. Objectives and Salient Features of the Bill

4. The National Identification Authority of India Bill, 2010, introduced in Rajya Sabha on 3rd December, 2010, *inter alia*, seeks to provide—

(a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic and biometric information to it in such manner as may be specified by regulations;

(b) for authentication of the aadhaar number of an aadhaar number holder in relation to his demographic and biometric information subject to such conditions and on payment of such fees as may be specified by regulations;

(c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;

(d) that the Authority to exercise powers and discharge functions which, *inter alia*, include—

(i) specifying the demographic and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(ii) collecting demographic and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(iii) maintaining and updating the information of individuals in the CIDR in such manner as may be specified by regulations;

(iv) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health;

(f) that the Authority may engage one or more entities to establish and maintain the CIDR and to perform any other functions as may be specified by regulations;

(g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage

of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

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(h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the CIDR) is secured and protected against any loss or unauthorized access or use or unauthorized disclosure thereof; and

(i) for offences and penalties for contravention of the provisions of the proposed legislation.

C. Evolution of the UIDAI

5. The concept of a Unique Identification (UID) scheme was first discussed and worked upon since 2006 when administrative approval for the scheme -Unique ID for BPL families- was given on 3rd March, 2006 by the Department of Information Technology, Ministry of Communications and Information Technology.

6. Subsequently, a Processes Committee was set up on 3rd July, 2006 to suggest processes for updation, modification, addition and deletion of data fields from the core database to be created under the said project. The Committee appreciated the need of a UID Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the Authority.

7. Thereafter, since the Registrar General of India was engaged in the creation of the National Population Register (NPR) and issuance of Multi-purpose National Identity Cards to citizens of India, it was decided with the approval of the Prime Minister, to constitute an Empowered Group of Ministers (EGoM) to collate the two schemes - the NPR under the Citizenship Act, 1955 and the UID scheme. The EGoM was also empowered to look into the methodology and specific milestones for early and effective completion of the scheme and take a final view on these. The EGoM was constituted on 4th December, 2006 and a series of meetings took place as follows:-

a) First meeting of EGoM: 22nd November, 2007 :

- Recognized the need for creating an identity related resident database regardless of whether the database is created based on a

de-novo collection of individual data or is based on already existing data such as the voter list.

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- Need to identify and establish institutional mechanism that will own the database and be responsible for its maintenance.

b) Second meeting of EGoM: 28th January, 2008

- The proposal to establish UID Authority under the Planning Commission was approved.

c) Third meeting of EGoM: 7th August, 2008

- Referred certain matters raised with relation to the UIDAI to a Committee of Secretaries for examination.

d) Fourth meeting of EGoM: 4th November, 2008

- It was decided to notify UIDAI as an executive authority. Decision on investing it with statutory authority would be taken up later.
- UIDAI would be anchored in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.

8. The UIDAI was constituted on 28th January, 2009 under the Chairmanship of Shri Nandan M. Nilekani as an attached office under the aegis of the Planning Commission. The UIDAI was *inter-alia* given the responsibility to lay down plan and policies to implement the UID scheme, own and operate the UID database and be responsible for its updation and maintenance on an ongoing basis. The Prime Ministers Council of UIDAI and a Cabinet Committee on UIDAI (called CC-UIDAI) were set up on 30th July, 2009 and 22nd October, 2009 respectively for achieving the objectives of the Authority.

9. Asked why the matter of conferring statutory status to the UIDAI was deferred, the Ministry of Planning have submitted their written response as under:-

- Based on the proposal that formation of the UIDAI under the Planning Commission would ensure better coordination with different departments, it was decided that initially the UIDAI may be notified as an executive authority under the Planning Commission and the issue of investing the UIDAI with statutory authority and the reconciliation of such statutory role with National Registration Authority (NRA) can be considered at an appropriate time.

10. Justifying the extension of the UID scheme, which is initially intended for BPL families, to all residents and other categories of individuals, the Ministry of Planning in their written response have submitted as under:-

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The UID scheme was extended to all residents and other categories of individuals to gradually do away the *de novo* exercises each time for field level data collection. Simultaneously, it would also ensure that links to more and more identity based databases are created by inclusion of the UID number in their databases.

11. In this regard, Dr. R. Ramakumar, Expert, in his post-evidence reply has, among other things, added as follows:-

...it has been proven again and again that in the Indian environment, the failure to enroll with fingerprints is as high as 15% due to the prevalence of a huge population dependent on manual labour. These are essentially the poor and marginalised sections of the society. So, while the poor do indeed need identity proofs, aadhaar is not the right way to do that ...

12. The Ministry in their written reply have stated, among other things, that :-

While there may be a number of factors contributing to the failure to enroll (like geography, age groups, occupation etc.) and the figures quoted..... may not hold good in all situations, failure to enroll is a reality.... For enrolment purpose, UIDAI has already built in processes to handle biometric exceptions.

D. Issuance of aadhaar numbers pending passing the Bill by Parliament

13. Justice Dr. M. Rama Jois, MP (Rajya Sabha) in his representation addressed to the Chairman, Standing Committee on Finance has *inter-alia* pointed out since the NIDAI Bill is pending for consideration before the Standing Committee on Finance, implementation of the provisions of the Bill, issue of aadhaar numbers and incurring expenditure from the exchequer by the Government is a clear circumvention of Parliament, and therefore, should be kept in abeyance awaiting debate in and decision of both Houses of Parliament.

14. On being asked about the legal basis under which the UIDAI is functioning at present, and the mechanism that the UIDAI has adopted, since its inception, to deal with any of the issues like security and confidentiality of

information and other offences related to issue of the aadhaar numbers, the Ministry of Planning in a written reply have *inter-alia* stated that:-

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—...The matter about commencement of operation of the UIDAI before a legal framework was put in place was referred to the Ministry of Law & Justice wherein opinion was sought on the issue whether in absence of a specific enabling law, would there be any constraints in collecting the data (including biometrics) and in issuing the UID numbers to residents in accordance with the mandate given to the Authority. The Ministry of Law & Justice, after examining the matter, had mentioned that it is a settled position that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation. It had also been opined that till the time such legislation is framed the Authority can continue to function under the executive order issued by the Government and the scheme that may be prepared by the UIDAI. It was also opined that the Authority can collect information/data for implementation of the UID scheme. Such implementation can be done by giving wide publicity to the scheme and persuading the agencies/individual to part with necessary information.

The UIDAI has not faced issues such as breach of security and confidentiality, manipulation of biometrics, unauthorized access to the CIDR or other related offences since its inception.....till the time Parliament passes the Bill, these matters will be covered by the relevant laws.

15. The opinion of the Attorney-General of India on the above mentioned issues as obtained by the Ministry of Law & Justice (Department of Legal Affairs) is furnished below:-

The competence of the Executive is not limited to take steps to implement the law proposed to be passed by Parliament. Executive Power operates independently. The Executive is not implementing the provisions of the Bill. The Authority presently functioning under the Executive Notification dated 28th January, 2009 is doing so under valid authority and there is nothing in law or otherwise which prevents the Authority from functioning under the Executive Authorisation.

The power of Executive is clear and there is no question of circumventing Parliament or the Executive becoming a substitute of Parliament. On the contrary, what is sought to be done is to achieve a seamless transition of the authority from an Executive Authority into a statutory authority.

All the expenditure which is being incurred is sanctioned by Parliament in accordance with the financial procedure set forth in the Constitution. If the Bill is not passed by any reason and if Parliament is of the view that

the Authority should not function and express its will to that effect, the exercise would have to be discontinued. This contingency does not arise.

The present Bill being implemented without Parliaments' approval does not set a bad precedent in the Parliamentary form of Government. On the contrary, the fact that the Authority is sought to be converted from an Executive Authority to a statutory authority, it underlines the supremacy of Parliament.

16. On this issue, Dr. Usha Ramanathan, Expert, in her post-evidence reply has *inter-alia* stated that:-

Article 73 of the Constitution delineates the extent of executive power of the Union and describes it as extending to matters with respect to which Parliament has power to make laws.....

While the executive power of the Union, and of the States, is co-extensive with the legislative power of the Union and the States, this is a provision that sets out the limits of the power. These are not provisions that are meant to make Parliament, or the legislatures, redundant. While executive power cannot extend beyond the legislative power of the Union and the States, Parliament and the legislatures can, and routinely do, set out the terms on which the executive is to function. This is also how 'delegated legislation' or 'subordinate legislation' has to be within the extent of the 'parent statute'.....

It is a plain misconception to think that the executive can do what it pleases, including in relation to infringing constitutional rights and protections for the reason that Parliament and legislatures have the power to make law on the subject.

E. UID scheme

17. A resident who seeks to obtain an aadhaar number shall provide his / her demographic and biometric information to enrolling agencies appointed by Registrars. A resident who does not possess any documentary proof of identity or proof of address can obtain an aadhaar number by being introduced by an introducer.

18. The UIDAI has executed Memoranda of Understanding (MoU) with the partners including all the States and Union Territories 25 financial institutions (including LIC) to act as Registrars for implementing the scheme. The roles and responsibilities of the partners flow from the MoU.

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19. The UIDAI requires only basic identity data such as name, age, gender, address and relationship details in case of minors, for issue of unique identity number. This is commonly known as Know your Resident (KYR). The partner registrars are using this resident interface as an opportunity to update their own selected data bases such as ration card number, MGNREGS job card number, PAN card etc. This is commonly known as Know your Resident: Plus' (KYR+). Collection of these information is purely an initiative of respective Registrars and not mandatory for issue of aadhaar number.

20. The UIDAI is collecting bare minimum demographic information from the residents; any other kind of information, viz., rural, semi-urban and urban areas, persons with disabilities, migrant unskilled and unorganized workers, nomadic tribes and others who do not have any permanent dwelling house, is not available with UIDAI. Asked how the coverage of marginalized sections of population, without having the data of aadhaar numbers issued to them, could be achieved, the Ministry has submitted that the Authority proposes to cover the marginalized and poor sections of the population through special enrolment camps organized for them.

21. In a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs have identified flaws in the enrolment process followed by the UIDAI, citing cases where people have got aadhaar numbers on the basis of false affidavits.

22. Further, an expert has brought to the notice of the Standing Committee on Finance that issues of liability and responsibility for maintaining accuracy of data on the Register, conducting identity checks and ensuring the integrity of the overall operation of the UID scheme have not been resolved. On being asked to comment on this, the Ministry of Planning have submitted a written reply as follows:-

—....Registrars have to put processes in place to ensure that the data collected is accurate. It is also the responsibility of the Registrars to appoint verifiers (for verifying the documents presented by the resident) and introducers to handle cases where the residents do not have any documents.

23. It has been reported in a news item that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI. It has also been noticed that the Government of Kerala vide G.O.(MS)No:16/2011/ITD dated 3rd June, 2011 has *inter-alia* stated that the MoU was signed between UIDAI and Government of Kerala for implementation of the UID project subject to condition that the clauses on the standards, protocol, criteria etc. in the MoU shall be in accordance with the State IT policy. 177

F. Global Experience

24. It has been brought to the notice of the Standing Committee on Finance that on the basis of the findings of London School of Economics (LSE) report, the Government of United Kingdom has abandoned its ID project (repealed its Identity Cards Act, 2006) citing a range of reasons, which includes high cost, unsafe, untested and unreliable technology, and the changing relationship between the state and the citizen etc.

To a specific issue of relevance of any of the above mentioned factors in the Indian context, it has been informed by the Ministry as follows:-

-There are significant differences between the UK's ID card project and the UID project and to equate the two would not be appropriate. The differences are as follows:-

a) The UK system involved issuing a card which stored the information of the individual including their biometrics on the card. UID scheme involves issuing a number. No card containing the biometric information is being issued. UK already has the National insurance number which is used often as a means to verify the identity of the individual.

b) The statutory framework envisaged made it mandatory to have the UK ID card. Aadhaar number is not mandatory.

c) The data fields were large and required the individual to provide accurate information of all other ID numbers such as driver's license, national insurance number and other such details thereby linking the UK ID card database to all other databases on which the individual was registered. UID Scheme collects limited information and the database is not linked to other databases.

d) In UK, the legislative framework and structure approached it from a security perspective. The context and need in India is different. The UID scheme is envisaged as a mean to enhance the delivery of welfare benefits and services.

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25. When asked as to whether any analysis has been carried out on the experience of countries where National IDs are in use as well as countries where it has been discontinued, the Ministry have *inter-alia* informed the Committee in a written reply as follows:-

— In some countries the use of smart cards to store significant data about the resident added to concerns about ID fraud and duplication.....

The comparisons between developed countries, which are looking at additional ID forms from a security perspective, versus India, a developing country which, like Brazil and Mexico, is attempting to, build the basic identity and verification infrastructure essential to delivering welfare benefits, and promoting inclusive growth, is not a reasonable one.

G. Existing identity forms vs need for aadhaar number

26. A view has been expressed that adding another form of identity (i.e. aadhaar number) without studying the possibility of using the existing forms of identity, for example, Voter ID card, to solve the current problems appears to be a waste of resources.

27. The Ministry of Planning in a written submission have *inter-alia* stated the following:-

—...in the current framework there is no single document which is uniformly acceptable as proof of identity across India – irrespective of age, gender and familial connections. Establishing identity is a challenge for the poor, particularly when they move from place to place as a consequence lack of proof of identity makes it difficult for the poor to access benefits and services.

... Aadhaar number is an enabler..... The benefits of aadhaar number are:-

For residents: The aadhaar number will become the single source of identity verification. Once residents enroll, they can use the number multiple times – they would be spared the hassle of repeatedly providing supporting identity documents each time they wish to access services such as obtaining a bank account, passport, driving license, and so on.... the number will also give migrants mobility of identity.

For Registrars and enrollers: The UIDAI will only enroll residents after de-duplicating records. This will help Registrars clean out duplicates from their databases, enabling significant efficiencies and cost savings. For Registrars focused on cost, the UIDAI's verification processes will ensure lower Know Your Resident (KYR) costs. For Registrars focused on social goals, a reliable identification number will enable them to broaden their reach into groups that till now, have been difficult to authenticate. The strong authentication that the aadhaar number offers will improve services, leading to better resident satisfaction. 179

For Governments: Eliminating duplication under various schemes is expected to save the Government exchequer a substantial amount. It will also provide Governments with accurate data on residents, enable direct benefit programs, and allow Government departments to coordinate investments and share information.

28. The Ministry have further added that:

---reason for starting the project is not for overriding existing Ids.....All the above documents are relevant to a claim and for a service. Aadhaar number is to be used as a general proof of identity and proof of address.

H. Identity and Eligibility

29. According to a news item dated 7th July, 2011, the operationalisation of aadhaar, the unique identification number, will make it possible to link entitlements to targeted beneficiaries. But it will not ensure beneficiaries have been correctly identified. Thus, the old problem of proper identification that bedevils the present system will continue.

30. It has also been brought to the notice of the Standing Committee on Finance that a key issue in targeted welfare schemes is said to be of eligibility and not identity. Government entitlements are unavailable to the poor, primarily due to the eligibility determination process having many loopholes and lacunae. One identity like aadhaar number has nothing to do with such entitlements.

31. Asked to furnish comments, the Ministry of Planning in a written reply have stated that-

---With aadhaar number integration in various Government schemes, the identity of the beneficiary gets established, by which it is ensured that the government scheme benefits reach the intended beneficiaries. Availability of identity and eligibility information together provides an important tool to plug the loopholes in the eligibility determination process, and in managing the eligibility life cycle for a beneficiary.

32. Dr. Reetika Khera, Expert, while deposing before the Committee has *inter-alia* stated as follows:-

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.....exclusion is more on account of poor coverage of these schemes. Say, for instance, in the Public Distribution System, the Planning Commission says that only x per cent of the rural population will get the BPL cards and because of that cap that is set at the Central level, we find that lots of people are excluded.

I. **Aadhaar Number and National Population Register (NPR)**

33. The Standing Committee on Finance, during briefing on the Bill held on 11th February, 2011, raised *inter-alia* the issue of possibility of dovetailing the UID exercise with the census operation. In this regard, the Ministry of Planning in their written reply have, among other things, stated as follows:-

.....the UIDAI is adopting a multiple registrar approach and the Registrar General of India (RGI) will be one of the Registrars of the UIDAI. To synergize the two exercises, an Inter Ministerial Coordination Committee has been set up to minimize duplication. The UIDAI is making all efforts to synergize with National Population Register (NPR) exercise....

34. According to a news item dated 6th September, 2011, the Ministry of Home Affairs said that it would not be preferable to rely entirely on private sector players' for biometric enrolments into the NPR since the population register will form the basis on which citizenship would be determined in the future. Unlike the UIDAI system, the NPR system follows an elaborate procedure to verify and cover the entire population of every area; and the data collected is subjected to social vetting; and accountability can be fixed under the NPR system.

35. In an another news article it has been reported that while registration to the NPR is compulsory and a National Identity Number is linked to each name the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules 2003 does not approve of linking biometrics with personal information. However, according to, the annual reports of the Ministry of Home Affairs, it said that integration of photographs and finger biometrics of 17.2 lakh out of 20.6 lakh records has been completed.

J. Coordination between the agencies involved in the UID scheme

36. In a detailed note on the NIDAI Bill, the Ministry of Planning have *inter alia* submitted that:-

Implementation of a project of this size is challenging. It involves co-ordination with multiple stakeholders and effective monitoring of implementation at every level....ll.

37. The Ministry of Finance (Department of Expenditure), however, while commenting on embedding aadhaar numbers in databases to enable interaction have stated that:-

It must be done urgently by single agency, perhaps NPR. Cabinet has approved (22.7.2010) outlay of Rs. 3,023.01 crore *inter-alia* for assistance for Information Communication Technology (ICT) infrastructure of Rs. 450 crore for integrating/ synergizing Aadhaar numbers with existing databases. Concerned about lack of co-ordination leading to duplication effort and expenditure with at least 6 agencies collecting information (NPR, MNREGA, BPL Census, UID, RSBY and Bank Smart Cards)ll.

38. It has been reported in a news item dated 3rd October, 2011 that the UID project has become focus of the ire of various arms of the government for rather disparate reasons. Asked to furnish the comments on the said news item, the Ministry of Planning have submitted a written reply as follows:-

Views reported in the news item	Comments of the Ministry of Planning
...the Finance Ministry rejected UIDAI's request for Rs 14,000 crore expenditure programme.	It is not correct that the Finance Ministry have rejected the budget expenditure. The proposal for phase III has been recommended by the EFC on 15 September, 2011 after optimizing the cost estimates with certain stipulations to be complied with by the UIDAI to achieve economy of scales, avoid duplication and avail convergence in the programme.
...the planning commission too jumped into the fray, suddenly awakening to the deficiency in the structure and functioning of the Authority.	Aadhaar programme is a complex project of its kind launched first time in the country. EFC is an Inter-Ministerial forum to appraise the proposal rigorously to facilitate decision making by the Competent Authority. Planning Commission is one of the nodal appraising agencies to the EFC forum. On approval by

	<p>Planning Commission some issues regarding design parameters, cost estimates and manner of implementation were emerged, which could not be visualized at project formulation stage. These issues have been deliberated in the EFC meeting and resolved through certain stipulations to be adhered to by UIDAI during execution of the project.</p>
<p>Adding to the confusion were the apparently negative comments made by the Ministry of Home Affairs(MHA) on the flaws in the enrolment process and the security of the biometric data. The Home Ministry's apparently nervous of the UIDAI's efforts to extend its aadhaar enrolment mandate, as the office of the Registrar General of India, an arm of the Ministry, is simultaneously compiling a National Population Register (NPR) which is a comprehensive identity database, as a part of the 2011 census operations currently under way.</p>	<p>While responding to the EFC memo of the UIDAI, the RGI (MHA) have observed as follows:-</p> <p>A security audit of the entire process of UIDAI including enrolment process in UIDAI, the enrolment software, data storage, data management, etc. should be conducted by an appropriate agency.</p> <p>The Comments of the UIDAI on this are:-</p> <p>UIDAI is developing a monitoring and evaluation framework to provide a comprehensive mechanism for continuously monitoring and evaluating the UIDAI program. Considering that a formal structured monitoring and evaluation framework will form the cornerstone for measuring the outcome of UIDAI programme, a distinct component 'Monitoring and evaluation' has been included in the current EFC proposal. Some of the audits planned on a periodic basis are:- (i) Enrolment Client Audit; (i) Enrolment Process (Field) Audits; (iii) ASDMSA Application Audits; (iv) Authentication User Agency Audits; (v) Data Center Audits; (vi) Security Audits; (vii) Impact Assessment (Grants in Aid for Research); and (viii) Other Third Party Audit Services.</p>
<p>The confusion about the turf of UIDAI and the MHA is rather surprising.</p>	<p>UIDAI has no comments to offer.</p>

given the fact that an EGoM was constituted as early as 2006 to collate the two schemes, namely the NPR and the unique identification number, as aadhaar was then known.

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RBI made the waters murkier by first going against the Finance Ministry notification that was issued in 2010 to permit the use of Know Your Customer (KYC) norms- by limiting the use of aadhaar numbers to -small accounts. It then retracted, by allowing use of aadhaar numbers to all bank accounts without any limitations, but only after again insisting that the banks must satisfy themselves about the current address of the customer. RBI's reluctance to fully accept the aadhaar numbers for the KYC norms is surprising, given that more than a dozen leading banks in the country are partnering with UIDAI to deliver aadhaar numbers to the citizens, and also when the aadhaar number have been accepted by the insurance companies and SEBI for meeting KYC norms.

It is clarified that-

(i) aadhaar is sufficient KYC for opening all bank accounts now. This includes no-frill accounts- as per Reserve Bank's circular dated January 27, 2011 - and any bank account as per September 28, 2011 circular.

(ii) Banks may ask for additional proof of residence if the current residence is not the same as the address given on the aadhaar document. This procedure is consistent with bank policies applicable to all other officially valid documents including passport, driving license and is not specific to aadhaar.

K. Civil Liberties Perspective

39. In a detailed note on the Bill, the Ministry of Planning have stated that issues like access and misuse of personal information, surveillance, profiling, prohibiting other data bases from storing aadhaar numbers; and securing confidentiality of information which is in the registrars domain need to be addressed in larger data protection legislation. In this connection, the Ministry have been asked to comment on the view that the Bill in its current form appears to be unsafe in law as there is no law at present on privacy, and data protection, therefore, it would be appropriate to consider the Bill for legislation only after passing the legislation on privacy, and data protection so as to ensure that there is no conflict between these laws. The Ministry in a written reply have *inter-alia* stated as under:-

-UIDAI has taken appropriate steps to ensure security and protection of data under this law and has incorporated data protection principles within its policy and implementation framework.....

Since appropriate steps have been taken, there is no dependency on the general data protection law.....when the data protection framework comes into place the Authority will follow the same since a national data protection law will apply to all agencies and institutions collecting information.

Collection of information without a privacy law in place does not violate the right to privacy of the individual....There is no bar on collecting information, the only requirement to be fulfilled with respect to the protection of the privacy of an individual is that care should be taken in collection and use of information, consent of individual would be relevant, information should be kept safe and confidential...

....The proposed Privacy law should also seek to strike a balance between the legitimate demands of protecting individual liberties while recognizing the need for larger public interest to prevail in certain well defined circumstances.

40. Responding to a suggestion received from PRS Legislative Branch that the existence of a unique identifier may facilitate record linkages across separate databases, the Ministry in a written reply have submitted that issues of linking and matching of databases need to be addressed through a data protection legislation which is currently being considered by the Department of Personnel.

41. The National Human Rights Commission (NHRC), on being asked to comment on the implications of the provisions of the Bill on the individual's right to privacy, has *inter alia* informed the Committee in their post-evidence reply as follows:-

....the right of privacy presupposes that such information relating to an individual which he would not like to share with others will not be disclosed. It may be mentioned that the right of privacy is not an absolute right.....

42. On the same issue, Dr. Usha Ramanathan, expert, in her post-evidence reply has stated that:-

—The right to dignity, the right to privacy, personal security and safety, the protection against surveillance, are constitutionally protected. The production of a number accompanied by the use of methods such as fingerprinting and iris scanning is even more invasive than is permitted to be applied to alleged offenders. Article 20 (3) provides protection against

compulsory extraction of personal information. Denying services, and rights, to persons because they are unwilling to part with the information in a manner that is more than likely to result in convergence and commodification of their personal information, surveillance, profiling, tagging and tracking is compulsory extraction that clearly reduces the constitutional rights of an ordinary citizen to less than that of an alleged offender. And that this is being done without the protection of law renders the exercise, per se, illegal. Apart from its 'uses', the potential for abuse is undeniable. In a similar context, another court – the Philippines Supreme Court – said:the data may be gathered for gainful and useful government purposes; but the existence of this vast reservoir of personal information constitutes a covert invitation to misuse, a temptation that may be too great for some of our authorities to resist.

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L. Financial Implications

(i) Feasibility Study

43. The Ministry of Planning in a detailed note on the Bill have stated that aadhaar number is cost-effective compared to other alternate targeted solutions to the problems identified in delivering services and benefits such as eliminating duplicate and fake identities. The Detailed Project Report (DPR) of the UID scheme has been prepared and submitted by M/s. Ernst & Young Pvt.Ltd. in April, 2011.

44. Asked whether any committee has been set up to study the financial implications of the UID scheme; and also to furnish the details of feasibility study carried out, if any, covering all aspects of the UID scheme such as setting up of the proposed NIDAI, and cost-benefit analysis, the Ministry in a written reply have, among other things, submitted that:

-No committee has been set up to study the financial implications of the UID scheme. As per laid down guidelines/procedure the Expenditure Finance Committee (EFC) reviews project proposals and its financial implications wherein the views of all stakeholders/ministries are taken in to account...

....deliberations were held with all relevant stakeholders including Planning Commission, Registrar General of India, Election Commission of India, Ministry of Rural Development, Ministry of Urban Development and State Governments. A Proof of Concept study was undertaken in the States of Gujarat, Karnataka, U.P. and Orissa in four rural and one urban locations to establish the feasibility of linking UID with partner-databases and to validate the possibility of one-time linkage which once

established would be maintained on an ongoing basis by the UIDAI. An assessment study was carried out in 10 Central Ministries and their respective departments in four states (Karnataka, Uttar Pradesh, Gujarat and West Bengal).

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(ii) **Estimated cost of the UID scheme**

45. The UID scheme is a Central Sector Scheme. The estimated cost of the Phase-I and Phase-II of the scheme spread over five years is Rs.3170.32 crore (Rs.147.31 crore for Phase-I and Rs.3023.01 crore for Phase-II). The estimated cost includes scheme components for issue of 10 crore UID numbers by March, 2011 and recurring establishment costs for the entire scheme up to March, 2014. The Budget for Phase-III of the scheme to the tune of Rs.8801 crore has been approved.

46. According to news items, the total cost of the UID scheme may run up to Rs. 1,50,000 crore. Even after the commitment of such levels of expenditures, the uncertainty over the technological options and ultimate viability of the scheme remains.

(iii) **Comparative cost of aadhaar number and existing ID documents**

47. Asked to furnish the details of comparative cost of existing ID documents (per individual), namely, Voter Id card, PAN card, driving license and aadhaar number, the Ministry has *inter-alia* informed the Committee in a written reply that the comparative costs of the documents mentioned above are not available.

(iv) **Funding of other biometric projects**

48. It is noticed that a project namely, Bharatiya - Automated Finger Print Identification System (AFSI), was launched in January, 2009, being funded by the Department of Information Technology, Ministry of Communications and Information Technology, for collection of biometric information of the people of the country.

49. Asked to clarify as to whether the biometric information (finger prints) being collected under the Bharatiya - AFSI project could also be used by the UIDAI, the Ministry have submitted that-

The biometrics required for the aadhaar project are iris, ten finger prints and photograph. To ensure uniqueness of the individual, it is essential that the biometrics captured are as per the specifications laid down by the Biometrics Standards Committee. The quality, nature and manner of collection of biometric data by other biometric projects may not be of the nature that can be used for the purpose of the aadhaar scheme and hence it may not be possible to use the fingerprints captured under the Bhartiya-AFSI project.

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(v) **Revenue model of the UIDAI**

50. According to a detailed note on the bill furnished by the Ministry of Planning, demographic data and address verification will be provided free of cost till a separate pricing policy is announced in due course.

51. However, in a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs pointed out uncertainties in the UIDAI's revenue model.

M. Technology

52. The Biometrics Standards Committee set up by the UIDAI has recognized in its report that a fingerprints-based biometric system shall be at the core of the UIDAI's de-duplication efforts. It has further noted that it is:

— conscious of the fact that de-duplication of the magnitude required by the UIDAI has never been implemented in the world. In the global context, a de-duplication accuracy of 99% has been achieved so far, using good quality fingerprints against a database of up to fifty million. Two factors however, raise uncertainty about the accuracy that can be achieved through fingerprints. First, retaining efficacy while scaling the database size from fifty million to a billion has not been adequately analyzed. Second, fingerprint quality, the most important variable for determining de-duplication accuracy, has not been studied in depth in the Indian context.

53. Asked to explain the reliability of technical architecture of the UID scheme, the Ministry of Planning in a detailed note on the NIDAI Bill have, among other things, stated as follows:-

The UID project is a complex technology project. Nowhere in the world has such a large biometric database of a billion people being maintained. The frontiers of technology in biometrics are being tested and used in the project.....

The technical architecture of the UID scheme is at this point, is based on high-level assumptions. The architecture has been structured to

ensure clear data verification, authentication and de-duplication, while ensuring a high level of privacy and information security.....

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- .. The project team is learning and adapting to the challenges and ensuring that the solutions that are being offered are the best in the world to achieve the task....||.

54. Further asked as to given the high degree of assumptions on the reliability of technology adopted by the UIDAI and probability of system failures of different degrees, whether incurring huge costs on the UID scheme is prudent and affordable, the Ministry have stated in a written reply, among other things, as follows:-

---UIDAI is cognizant of the fact that biometric matching (which is a patterns matching) by its very nature will suffer from inaccuracy. However, these inaccuracy levels are less than 1%. This cannot be a reason for not attempting to use the technology.

It is well acknowledged that there will be failures in authentication for various reasons. After Proof of Concept studies on authentication, appropriate policies and processes will be developed to take care of situations where failure occurs for various reasons.....The choice of using the authentication services is left to the third party service provider.....Concerned agencies will have to develop policies and procedures to handle such exceptional situations.....||

55. In a news article, one of the representatives of the UIDAI has admitted that the quality of fingerprints is bad because of the rough exterior of fingers caused by hardwork, and this poses a challenge for later authentication.

N. National Security vs the UID scheme

(i) Illegal residents

56. A concern over the possibility of illegal residents getting aadhaar numbers, and the safeguards in this regard has been raised by the Standing Committee on Finance during the sitting held on 11 February, 2011. In a written reply, the Ministry of Planning have stated as under:-

-Aadhaar number is not a proof of citizenship or domicile [Clause 6 of the Bill]. It only confirms identity and that too subject to authentication [Clause 4(3)]. This is clearly mandated in the NIDAI Bill and the communication being sent to the resident.

It is the responsibility of the Registrars to enrol a resident after due verification as per the procedure laid down by the UIDAI. If a person is not a resident as per the Bill, the Authority is being vested with the power

to omit/deactivate the aadhaar number [Clause 23 (2) (g)]. Subsequent attempts to enter the system can be detected.

(ii) Involvement of Private agencies

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57. On the issue of security of proposed data of UIDAI, an unstarred question (no.2989) was raised in Rajya Sabha. The Minister of State in the Ministry of Planning and Minister of State in the Ministry of Parliamentary Affairs tabled the answer to the above said question in Rajya Sabha on 22 April, 2010 as follows:-

National Informatics Centre (NIC) had pointed out that the issues relating to privacy and security of UID data, in case the data is not hosted in a Government data centre may be taken into consideration.

UIDAI is of the opinion that the hosting of data in a private data centre does not necessarily lead to a violation of privacy or security. Appropriate contractual arrangement shall be put in place with the data centre space provider to ensure security and privacy of the data.

At present, UIDAI does not have its own permanent facility to house its data centre. Therefore, 75 sq.ft of data centre space has been hired from M/s. ITI Ltd for proof of concept and pilot on a rental basis.

58. The Ministry of Home Affairs, according to a news item, have questioned the security of citizens' biometric data in UIDAI's 'outsourced service oriented infrastructure' model.

59. To a specific query as to could outside agencies be allowed to partake in the UID scheme when doubts have been expressed on possible compromise with the interests of the national security, the Ministry of Planning in a written reply have *inter alia* stated that:-

...the UIDAI has followed government procurement process and engaged the appropriate agencies for the implementation of the UID scheme....The UIDAI has also implemented a comprehensive information security policy.....

60. It is, however, reported in various news articles as late as dated 26th November, 2011 that controversies between the Ministry of Home Affairs and the UIDAI over the issues such as manner and processes followed by the UIDAI, duplication of efforts between National Population Register and aadhaar, and security of data remain unresolved.

OBSERVATIONS / RECOMMENDATIONS

1. The Committee have carefully examined the written information furnished to them and heard the views for and against the National Identification Authority of India (NIDAI) Bill from various quarters such as the Ministry of Planning, the Unique Identification Authority of India (UIDAI), the National Human Rights Commission (NHRC) and experts. The clearance of the Ministry of Law & Justice for issuing aadhaar numbers, pending passing the Bill by Parliament, on the ground that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its Executive power in the areas which are not regulated by the legislation does not satisfy the Committee. The Committee are constrained to point out that in the instant case, since the law making is underway with the bill being pending, any executive action is as unethical and violative of Parliament's prerogatives as promulgation of an ordinance while one of the Houses of Parliament being in session.

2. The Committee are surprised that while the country is on one hand facing a serious problem of illegal immigrants and infiltration from across the borders, the National Identification Authority of India Bill, 2010 proposes to entitle every resident to obtain an aadhaar number, apart from entitling such other category of individuals as may be notified from time to time. This will, they apprehend, make even illegal immigrants entitled for an aadhaar number. The Committee are unable to understand the rationale of expanding the scheme to persons who are not citizens, as this entails numerous benefits proposed by the Government. The Committee have received a number of suggestions for restricting the scope of the UID scheme only to the citizens and for considering better options available with the Government by issuing Multi-Purpose National Identity Cards (MNICs) as a more acceptable alternative.

3. The Committee observe that *prima facie* the issue of unique identification number, which has been referred to as "aachaar number" to individuals residing in India and other classes of individuals under the Unique Identification (UID) Scheme is riddled with serious lacunae and concern areas which have been identified as follows:-

- (a) The UID scheme has been conceptualized with no clarity of purpose and leaving many things to be sorted out during the course of its implementation; and is being implemented in a directionless way with a lot of confusion. The scheme which was initially meant for BPL families has been extended for all residents in India and to certain other persons. The Empowered Group of Ministers (EGoM), constituted for the purpose of collating the two schemes namely, the UID and National Population Register(NPR), and to look into the methodology and specifying target for effective completion of the UID scheme, failed to take concrete decision on important issues such as (a) identifying the focused purpose of the resident identity database; (b) methodology of collection of data; (c) removing the overlapping between the UID scheme and NPR; (d) conferring of statutory authority to the UIDAI since its inception; (e) structure and functioning of the UIDAI; (f) entrusting the collection of data and issue of unique identification number and national identification number to a single authority instead of the present UIDAI and its reconciliation with National Registration Authority;
- (b) The need for conferring of statutory authority to the UIDAI felt by the Government way back in November, 2008, but was deferred for more than two years for no reason. In this regard, the Ministry of Planning have informed the Committee that till the time Parliament passes the NIDAI Bill, crucial matters impinging

on security and confidentiality of information will be covered by the relevant laws. The Committee are at a loss to understand as to how the UIDAI, without statutory power, could address key issues concerning their basic functioning and initiate proceedings against the defaulters and penalize the n;

- (c) The collection of biometric information and its linkage with personal information of individuals without amendment to the Citizenship Act, 1955 as well as the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, appears to be beyond the scope of subordinate legislation, which needs to be examined in detail by Parliament;
 - (d) Continuance of various existing forms of identity and the requirement of furnishing „other documents" for proof of address, even after issue of aadhaar number, would render the claim made by the Ministry that aadhaar number is to be used as a general proof of identity and proof of address meaningless;
 - (e) In addition to aadhaar numbers being issued by the UIDAI, the issuance of smart cards containing information of the individuals by the registrars is not only a duplication but also leads to ID fraud as prevalent in some countries; and
 - (f) The full or near full coverage of marginalized sections for issuing aadhaar numbers could not be achieved mainly owing to two reasons viz. (i) the UIDAI doesn't have the statistical data relating to them; and (ii) estimated failure of biometrics is expected to be as high as 15% due to a large chunk of population being dependent on manual labour.
4. The Committee regret to observe that despite the presence of serious difference of opinion within the Government on the UID scheme as illustrated below, the scheme continues to be implemented in an

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overbearing manner without regard to legalities and other social consequences:-

- (i) The Ministry of Finance (Department of Expenditure) have expressed concern that lack of coordination is leading to duplication of efforts and expenditure among at least six agencies collecting information (NPR, MGNREGS, BPL census, UIDAI, RSBY and Bank Smart Cards);
- (ii) The Ministry of Home Affairs are stated to have raised serious security concern over the efficacy of introducer system, involvement of private agencies in a large scale in the scheme which may become a threat to national security; uncertainties in the UIDAI's revenue model;
- (iii) The National Informatics Centre (NIC) have pointed out that the issues relating to privacy and security of UID data could be better handled by storing in a Government data centre;
- (iv) The Ministry of Planning have expressed reservation over the merits and functioning of the UIDAI; and the necessity of collection of iris image;
- (v) Involvement of several nodal appraising agencies which may work at cross-purpose; and
- (vi) Several Government agencies are collecting biometric(s) information in the name of different schemes.

5. The Committee are also unhappy to observe that the UID scheme lacks clarity on many issues such as even the basic purpose of issuing "aadhaar" number. Although the scheme claims that obtaining aadhaar number is voluntary, an apprehension is found to have developed in the minds of people that in future, services / benefits including food entitlements would be denied in case they do not have aadhaar number.

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It is also not clear as to whether possession of aadhaar number would be made mandatory in future for availing of benefits and services. Even if the aadhaar number links entitlements to targeted beneficiaries, it may not ensure that beneficiaries have been correctly identified. Thus, the present problem of proper identification would persist.

It is also not clear that the UID scheme would continue beyond the coverage of 200 million of the total population, the mandate given to the UIDAI. In case, the Government does not give further mandate, the whole exercise would become futile.

6. Though there are significant differences between the identity system of other countries and the UID scheme, yet there are lessons from the global experience to be learnt before proceeding with the implementation of the UID scheme, which the Ministry of Planning have ignored completely. For instance, the United Kingdom shelved its Identity Cards Project for a number of reasons, which included:- (a) huge cost involved and possible cost overruns; (b) too complex; (c) untested, unreliable and unsafe technology; (d) possibility of risk to the safety and security of citizens; and (e) requirement of high standard security measures, which would result in escalating the estimated operational costs. In this context, the Report of the London School of Economics' Report on UK's Identity Project *inter-alia* states that ".....identity systems may create a range of new and unforeseen problems.....the risk of failure in the current proposals is therefore magnified to the point where the scheme should be regarded as a potential danger to the public interest and to the legal rights of individuals". As these findings are very much relevant and applicable to the UID scheme, they should have been seriously considered.

7. The UID scheme facilitates the UIDAI and the registrars to create database of information of people of the country. Considering the huge database size and possibility of misuse of information, the Committee are

of the view that enactment of national data protection law, which is at draft stage with the Ministry of Personnel, Public Grievances and Pensions, is a pre-requisite for any law that deals with large scale collection of information from individuals and its linkages across separate databases. In the absence of data protection legislation, it would be difficult to deal with the issues like access and misuse of personal information, surveillance, profiling, linking and matching of data bases and securing confidentiality of information etc.

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8. The Committee note that the Ministry of Planning have admitted that (a) no committee has been constituted to study the financial implications of the UID scheme; and (b) comparative costs of the aadhaar number and various existing ID documents are also not available. The Committee also note that Detailed Project Report (DPR) of the UID Scheme has been done much later in April, 2011. The Committee thus strongly disapprove of the hasty manner in which the UID scheme has been approved. Unlike many other schemes / projects, no comprehensive feasibility study, which ought to have been done before approving such an expensive scheme, has been done involving all aspects of the UID scheme including cost-benefit analysis, comparative costs of aadhaar number and various forms of existing identity, financial implications and prevention of identity theft, for example, using hologram enabled ration card to eliminate fake and duplicate beneficiaries.

9. The Committee are afraid that the scheme may end up being dependent on private agencies, despite contractual agreement made by the UIDAI with several private vendors. As a result, the beneficiaries may be forced to pay over and above the charges to be prescribed by the UIDAI for availing of benefits and services, which are now available free of cost.

10. The Committee find that the scheme is full of uncertainty in technology as the complex scheme is built up on untested, unreliable technology and several assumptions. Further, despite adverse observations by the UIDAI's Biometrics Standards Committee on error rates of biometrics, the UIDAI is collecting the biometric information. It is also not known as to whether the proof of concept studies and assessment studies undertaken by the UIDAI have explored the possibilities of maintaining accuracy to a large level of enrolment of 1.2 billion people. Therefore, considering the possible limitations in applications of technology available now or in the near future, the Committee would believe that it is unlikely that the proposed objectives of the UID scheme could be achieved. 196

11. The Committee feel that entrusting the responsibility of verification of information of individuals to the registrars to ensure that only genuine residents get enrolled into the system may have far reaching consequences for national security. Given the limitation of any mechanism such as a security audit by an appropriate agency that would be setup for verifying the information etc., it is not sure as to whether complete verification of information of all aadhaar number holders is practically feasible; and whether it would deliver the intended results without compromising national security. As the National Identity Cards to citizens of India are proposed to be issued on the basis of aadhaar numbers, the possibility of possession of aadhaar numbers by illegal residents through false affidavits / introducer system cannot be ruled out.

12. The Committee take note that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI which renders the Memoranda of Understanding (MoU) signed between the UIDAI and the registrars meaningless; and it compromises the security and confidentiality of information of aadhaar

number holders. Even, according to the latest media reports, controversies between the Ministry of Home Affairs and the UIDAI over issues such as the manner and processes followed by the UIDAI, duplication of efforts between NPR and aadhaar, and security of data still remain unresolved. 197

13. In view of the afore-mentioned concerns and apprehensions about the UID scheme, particularly considering the contradictions and ambiguities within the Government on its implementation as well as implications, the Committee categorically convey their unacceptability of the National Identification Authority of India Bill, 2010 in its present form. The data already collected by the UIDAI may be transferred to the National Population Register (NPR), if the Government so chooses. The Committee would, thus, urge the Government to reconsider and review the UID scheme as also the proposals contained in the Bill in all its ramifications and bring forth a fresh legislation before Parliament.

New Delhi
11 December, 2011
20 Agrahayana, 1933 (Saka)

YASHWANT SINHA
Chairman,
Standing Committee on Finance

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ANNEXURE- P/7**AADHAAR ENROLMENT / CORRECTION FORM**

Aadhaar Enrolment is free and voluntary. Correction within 96 hours of enrolment is also free. No charges are applicable for Form and Aadhaar Enrolment. In case of Correction provide your EID, Name and only that field which needs Correction.

In case of Correction provide your EID No here:

Please follow the instructions overleaf while filling up the form. Use capital letters only.

1	Pre-Enrolment ID :	2	NPR Receipt/TIN Number :
3	Full Name:		
4	Gender: Male () Female () Transgender ()	5	Age: Yrs OR Date of Birth: Declared <input type="checkbox"/> Verified <input type="checkbox"/>
6	Address: C/o () D/o () S/o () W/o () H/o () House No/ Bldg./Ap.: Street/Road/Lane Landmark Area/locality/sector Village/Town/City Post Office District Sub-District State E Mail Mobile No PIN CODE		
7	Details of : Father () Mother () Guardian () Husband () Wife () <small>For children below 5 years Father/Mother/Guardian's details are mandatory. Adults can opt to not specify this information, if they cannot/do not want to disclose.</small> Name EID/ Aadhaar No.:		
8	I have no objection to the UIDAI sharing information provided by me to the UIDAI with agencies engaged in delivery of public services including welfare services.		(✓) / (x)
9	Select <input checked="" type="checkbox"/> one of the below (OPTIONAL) (This data cannot be corrected after Enrolment) <input type="checkbox"/> I want the UIDAI to facilitate opening of a new Bank/Post Office Account linked to my Aadhaar Number and have no objection to sharing my information for this purpose <input type="checkbox"/> I have no objection to linking my present bank account provided here to my Aadhaar number State Bank Name/Branch IFSC Code Account No.		
Verification Type : Document Based () Introducer Based () Head of Family () Select only one of the above. Select Introducer or Head of Family only if you do not possess any documentary proof of identity and/or address. Introducer and Head of Family details are not required in case of Document based Verification.			
10	For Document Based (Write Names of the documents produced. Refer back side of this form for list of valid documents)		
a. POI		b. POA	
c. DOB <small>(Mandatory in case of Verified Date of Birth)</small>		d. POR	
11	For Introducer Based – Introducer's Aadhaar No.	For HoF Based - Details of : Father () Mother () Guardian () Husband () Wife () HoF's EID/Aadhaar No.:	
I hereby confirm the identity and address of _____ as being true, correct and accurate.			
Introducer/HoF's Name:		Signature of Introducer/HoF	

Consent

I confirm that information (including biometrics) provided by me to the UIDAI and the information contained herein is my own and is true, correct and accurate.

Applicant's signature/Thumbprint

Verifier's Stamp and Signature:

(Verifier must put his/her Name, if stamp is not available)

To be filled by the Enrolment Agency only

Date & time of Enrolment: _____

Instructions to follow while filling up the enrolment form

Field 2 NPP NUMBER	Resident may bring his/her National Population Register Survey slip (if available) and fill up the column.
Field 3 NAME	Write full name without salutations/titles. Please bring the original ¹ Proof of Identity (POI) document. (See list A below). Variation in Resident's Name in contrast to POI is permissible as long as the change is minor spelling only, without altering the Name in POI document. For example: If Resident's POI reads "Preethi", then "Prithi" can be recorded if Resident wants so.
Field 5 DOE / AGE	Fill in Date of Birth in DDMMYYYY format. If exact Date of Birth is not known, approximate age in Years may be filled in the space provided. Please bring the original Proof of Date of Birth (DoB), if available (See list D below). Declared checkbox may be selected if Resident does not have a valid proof of Date of Birth document. Verified checkbox is selected where Resident has provided documents as proof of Date of birth.
Field 6 ADDRESS	Write complete address. Please bring the original Proof of Address (POA) document. (See list B below). Please note that the Aadhaar letter will be delivered at the given address only. <ul style="list-style-type: none"> To include Parent / Guardian / Spouse name as part of the address, select the appropriate box and enter the name of the person. Minor Corrections / Enhancements are permissible to make the address complete without altering the base address as mentioned in the POA document. In case of children below 5 years, it is mandatory to provide father/mother/guardian details with their Aadhaar or EID number. If the resident is not holding a Proof of Identity & using the Head of the Family identity for enrolment, it is mandatory to provide Head of the family's details with his/her Aadhaar or EID number. Please refer illustration below for filling EID. Please bring the original Proof of Relationship (POR) document. (See list C below). For other cases, it is optional for the resident to fill up the relationship details.
Field 8 CONSENT	Resident may specifically express willingness / unwillingness by selecting the relevant box.
Field 9 BANK ACCOUNT	Resident may choose to open a new Aadhaar enabled bank / POSE account or can link existing bank account to Aadhaar number. Relevant details as requested may be provided. This is an optional field.
Field 10 DOCUMENTS	Write the name of Documents for POI and POA. In case proof of Date of Birth is available, then write the name of Date of Birth document. If the resident is not holding a Proof of Identity & using the Head of the Family based enrolment, then write the name of Proof of Relationship document. For Valid list of documents, please refer list of Documents below.
Field 11 INTRODUCER/HoF	Resident who does not have POI and POA may get enrolled through an Introducer/ Head of Family. PI contact nearest enrolment centre or your Registrar, for further details.

List A. POI documents

1. Passport
2. PAN Card
3. Ration/ PDS Photo Card
4. Voter ID
5. Driving License
6. Government Photo ID Cards/ service photo identity card issued by PSU
7. NREGS Job Card
8. Photo ID issued by Recognized Educational Institutions
9. Arms License
10. Photo Bank ATM Card
11. Photo Credit Card
12. Pensioner Photo Card
13. Freedom Fighter Photo Card
14. Kissan Photo Passbook
15. CGHS / ECHS Photo Card
16. Address Card having Name and Photo issued by Department of Posts
17. Certificate of Identity having photo issued by Gazetted Officer or Tehsildar on letterhead
18. Disability ID Card/handicapped medical certificate issued by the respective State/UT Governments/Administrations

List B. POA documents

1. Passport
2. Bank Statement/ Passbook
3. Post Office Account Statement/Passbook
4. Ration Card
5. Voter ID
6. Driving License
7. Government Photo ID cards/ service photo identity card issued by PSU
8. Electricity Bill (not older than 3 months)
9. Water bill (not older than 3 months)
10. Telephone Landline Bill (not older than 3 months)
11. Property Tax Receipt (not older than 3 months)
12. Credit Card Statement (not older than 3 months)
13. Insurance Policy
14. Signed Letter having Photo from Bank on letterhead
15. Signed Letter having Photo issued by registered Company on letterhead
16. Signed Letter having Photo issued by Recognized Educational Institution on letterhead
17. NREGS Job Card
18. Arms License
19. Pensioner Card
20. Freedom Fighter Card
21. Kissan Passbook
22. CGHS / ECHS Card
23. Certificate of Address having photo issued by MP or MLA or Gazetted Officer or Tehsildar on letterhead
24. Certificate of Address issued by Village Panchayat head or its equivalent authority (for rural areas)
25. Income Tax Assessment Order
26. Vehicle Registration Certificate
27. Registered Sale / Lease / Rent Agreement
28. Address Card having Photo issued by Department of Posts
29. Caste and Domicile Certificate having Photo issued by State Govt.
30. Disability ID Card/handicapped medical certificate issued by the respective State/UT Governments/Administrations
31. Gas Connection Bill (not older than 3 months)
32. Passport of Spouse
33. Passport of Parents (in case of Minor)

List C. POR documents

1. PDS Card
2. MNRGA Job Card
3. CGHS/State Government/ECHS/ESIC Medical card
4. Pension Card
5. Army Canteen Card
6. Passport
7. Birth Certificate issued by Registrar of Birth, Municipal Corporation and other notified local government bodies like Taluk, Tehsil etc.
8. Any other Central/State government issued family entitlement document.

List D. DOB documents

1. Birth Certificate
2. SSLC Book/Certificate
3. Passport
4. Certificate of Date of Birth issued by Group A Gazetted Officer on Letterhead

Illustration for filling up EID No.

Acknowledgement/Resident Copy		आधार / राशि रजि		AADHAAR	
Enrolment No./आधार नं: 00081234500020		Date/दिनांक: 28/04/2011 15:50:14			
or EID No: 000812345000202804281155016					

*In instances where original documents are not available, copies attested / certified by a public notary / gazetted officer will be accepted.

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ENROLMENT FORM

Please use CAPITAL letters AADHAAR Enrolment under

Date

Part A – Primary Details

Name :

Mother

Father

Husband

Guardian's Name

(Name of Mother/Father/Guardian is must for children below 5 years of age)

Date of Birth:

If not known, Age

Gender:

male

Female

Transgender

Residential address

C/o

House No. And name/

Landmark

Village/City

District

State

Pin Code/

Part B- Additional Information

Phone No./Mobile No (Optional)

E-mail (Optional)

Part C- Financial Information

I want to link my existing bank A/c to Aadhar and have No. This issue

Bank Name and Branch

A/c No.

ENROLLMENT FORM

Please use CAPITAL letters
number:

AADHAAR/Enrolment

Date

Part A – Primary Details

Name:

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Mother Father Husband Guardians Name

(Name of Mother/Father Guardian is must for children below 5 years of age)

Date of Birth: If not known Age

Gender: Male Female Transgender

Residential address :

C/o -----

House No. And name -----

Street No and name -----

Landmark :

Village/City :

District :

State :----- Pin code

Part B – Additional information

Phone No/ Mobile No (optional) :

Email (optional)

Part C – Financial information

I want to link my existing bank A/c to Aadhaar and I have no objection on this issue.

Bank name and Branch

A/c No.

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Annexure P-8

CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT ("Agreement") made
the 24th day of August, 2010

BETWEEN

The President of India acting through the Director General, Unique Identification Authority of India (UIDA) (hereinafter referred to as "Purchaser") which expression shall unless repugnant to the context or meaning thereof mean and be deemed to include its authorized agents.

AND

The Party M/s L-1 Identity Solutions Operating Company Private Limited, a company incorporated under the Indian Companies Act, 1956 having its registered office at 2, Frontline Grandeur, 14 Walton Road, Bangalore 560001 (hereinafter referred to as "L-1 India") a subsidiary of L-1 Identity Solutions Operating Company, a Delaware USA corporation (identified in Purchaser's Bid document as the "Prime Consortium Member" and Prime Bidder and hereinafter

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referred to as "Biometric Solution Provider" or BSP"
which expression shall unless repugnant to the context
or meaning thereof mean and be deemed to include its
successors and permitted assigns of the other Part.

ANNEXURE A

General Conditions of Contract

1.
2.
 - a.
 - b.
 - c. unless otherwise specified a reference to a clause, sub-clause or section is a reference to a clause, sub-clause or section of the Contract including any amendments or modifications to the same from time to time.
 - d. a word in the singular includes the plural and a word in the plural includes the singular;
 - e. a word importing a gender includes any other gender.
 - f. a reference to a person includes a partnership and a body corporate.

- g. a reference to legislation includes legislation repealing, replacing or amending that legislation.
- h. where a word or phrase is given a particular meaning it includes the appropriate grammatical forms of that word or phrase which have corresponding meanings.
- i. In the event of an inconsistency between the terms of this contract and the Bid the terms hereof shall prevail.

3. Conditions Precedent

3.1 This Contract is subject to the fulfilment of the following conditions precedent by M/s L-1 Identity Solutions Operating Company.

- a. Furnishing of a unconditional, irrevocable and continuing Bank Guarantee of the sum of Rs. 2,88,75,000 in a form and manner acceptable to the Purchaser which would remain valid until such time and be renewable as may be stipulated by the Purchaser.

- b. Execution of a Deed of Indemnity in terms of Clause 16 of this Contract.
- c. Obtaining of all statutory and other approvals required for the performance of wherever applicable, that may be required for execution of this contract e.g clearances from the Government authorities for importing equipment, exemption of Tax/Duties/Levies, work permits/clearances for M/s L-1 Identity Solutions Operating Company/ the team of M/s L-1 Identity Solutions Operating Company etc.
- d. Where the designated M/s L-1 Identity Solutions Operating Company is a subsidiary company or a member of a group of companies or is a joint venture company or is special purpose vehicle (SPV) formed to execute the obligations under the Contract and where the Purchaser may specify (on account of the failure of M/s L-1 Identity Solutions Operating Company to fulfil all selection criteria specified in the Bid), the parent or flagship company/majority shareholder of such M/s L-1 Identity Solutions Operating Company

having furnished an unconditional, irrevocable and continuing guarantee of an amount equivalent to Rs. 2,88,75,000 on behalf of M/s L-1 Identity Solutions Operating Company in a form and manner acceptable to the Purchaser which would remain valid until such time, beyond the terms of the Contract as may be stipulated by the Purchaser.

- e. All the members of the Consortium shall have executed a binding Consortium Contract/ Agreement a notarized copy of which shall have been delivered to the Purchaser.
- f. All the members of the Consortium shall have executed a Power of Attorney authorizing the Prime Consortium Member to act for and on behalf of the Consortium members, a notarized copy of which shall have been delivered to the Purchaser.
- g. Furnishing of such other documents as the Purchaser may specify.

The Purchaser reserves the right to waive any or all of the conditions specified in Clause 3.1 above in writing and no such waiver shall affect or impair any right, power or remedy that the Purchaser may otherwise have.

13.5 Records of Contract Documents

13.5.1 M/s L-1 Identity Solutions Operating Company shall at all time make and keep sufficient copies of the Contract documents, manuals, reference material, drawings, specifications and any other document required by him to fulfil his duties under the contract.

13.5.2 M/s L-1 Identity Solutions Operating Company shall keep at each Datacenter Site and UIDAI location, adequate number of copies of all documents required to fulfil his duties under the Contract, in excess of his own requirement and those copies shall be available at all times for use by the Purchaser's Representative and/or by any other person authorized by the Purchaser's Representative.

14. Ownership and Retention of Documents

14.1 The Purchaser shall own the Documents, proposed by or for M/s L-1 Identity Solutions Operating Company arising out of or in connection with this Contract.

14.2 The Documents shall be retained by M/s L-1 Identity Solutions Operating Company not more than a period of 2 years as per Retention Policy of Government of India or any other policy that UIDAI may adopt in future.

14.3 Forthwith upon expiry or earlier termination of this Contract and at any other time on demand by the Purchaser, M/s L-1 Identity Solutions Operating Company shall deliver to the Purchaser all Documents provided by or originating from the Purchaser and all Documents produced by or from or for M/s L-1 Identity Solutions Operating Company in the course of performing the Services, unless otherwise directed in writing by the Purchaser at no additional cost. M/s L-1 Identity Solutions Operating Company shall not, without the prior written consent of the Purchaser

store, copy, distribute or retain any such Document.

15. Data and Hardware

15.1 By virtue of this Contract M/s L-1 Identity Solutions Operating Company/ the Team of M/s L-1 Identity Solutions Operating Company may have access to personal information of the Purchaser and/or a third party or any resident of India, any other person covered within the ambit of any legislation as may be applicable. The Purchaser shall have the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the residents of India that may be in the possession of M/s L-1 Identity Solutions Operating Company or the team of M/s L-1 Identity Solutions Operating Company in the course of performing the services under this Contract.

15.2 The Purchaser shall have the sole ownership of and the right of use, proprietary Biometric templates of residents of India as created and maintained by M/s L-1 Identity Solutions

Operating Company in the course of performing the services under this contract. In the event of termination or expiry of contract, M/s L-1 Identity Solutions Operating Company shall transfer all the proprietary templates to UIDAI in an electronic storage media in a form that is freely retrievable for reference and usage in future.

16. Indemnity

16.1 M/s L-1 Identity Solutions Operating Company shall execute and furnish to the Purchaser, a Deed of Indemnity in favour of the Purchaser in a form and manner acceptable to the Purchaser, indemnifying the Purchaser from and against any costs, loss, damages, expense, claims including those from third parties on liabilities of any kind however suffered, arising or incurred inter alia during and after the Contract period out of:

- a. any negligence or wrongful act or omission by M/s L-1 Identity Solutions Operating Company or the team of M/s L-1 Identity Solutions Operating Company or any third party associated with M/s

L-1 Identity Solutions Operating Company in connection with or incidental to this contract or

- b. any breach of any of the terms of the bid of M/s L-1 Identity Solutions Operating Company as agreed, the Bid and this Contract by M/s L-1 Identity Solutions Operating Company, the team of M/s L-1 Identity Solutions Operating Company or any third party.
- c. any infringement of patent, trademark/ copyright or industrial design rights arising from the use of the supplied goods and related services or any part thereof.

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ANNEXURE - P/9

ITEM NO.5+56

Court No.5

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO(s). 494 OF 2012

JUSTICE K.S.PUTTASWAMY(RETD)& ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay)

WITH T.P.(C) NO. 47-48 of 2013

(With appln(s) for stay and office report)

(Appln. for deletion of the name of petitioner no. 1)

T.P.(C) NO. 476 of 2013

With appln(s) for stay and office report)

W.P.(C) No. 829 of 2013

With appln(s) for interim relief and office report)

Date: 23/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. Anil B. Divan, Sr. Adv.

Mr. Ankit Goel, Adv.

Mr. Ranvir Singh, Adv.

Mr. Sanjay Yadav, Adv.

Mr. Anish Kumar Gupta, Adv.

Ms. Deepshikha Bharati, Adv.

Mr. S.S. Shamshery, Adv.

Mr. Rajeev Kr. Singh, Adv.

Mr. Nachiketa Joshi, Adv.

Mr. P.R. Kovilan Poongkuntran, Adv.

Mrs. Geetha Kovilan, Adv.

Mr. Shyam Divan, Sr. Adv.

Mr. Pratap Venugopa., Adv.

Ms. Meenakshi Chauhan, Adv.

Mr. Varun Singh, Adv.

Mr. Gaurav Nair, Adv.

for M/s. K.J. John & Co.

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For Respondent(s) Mr. Mohan Parasaran, SG
Mr. L. Nageshwar Rao, ASG (I
Mr. Farrukh Rasheed, Adv.
Mr. Alok Mishra, Adv.
Mr. D.S. Mahra, Adv

UPON hearing counsel the Court made the following

ORDER

Issue notice in W.P.(C) No. 829/2013.

Application for deletion of the name of petitioner no. 1 in T.P.(C) Nos. 47 of 2013 is allowed.

T.P (C)nos. 47-48 of 2013 and T.P.(C) No. 476 of 2013 are allowed in terms of the signed order.

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Adhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Adhaar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant.

(DEEPAK MANSUKHANI)
Court Master

(M.S. NEGI)
Court Master

(Signed order is placed on the file)

ANNEXURE-P/

SUPREME COURT OF INDIA 215
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO(s). 494 OF 2012

JUSTICE K.S.PUTTASWAMY(RET'D)& ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for directions, stay, intervention, clarification /
modification of court's order, impleadment and office report)
(For final disposal)

WITH W.P(C) NO. 829 of 2013

(With appln(s) for interim relief and impleadment and office report)
(For final disposal)

W.P(C) NO. 932 of 2013

(With appln(s) for directions and office report)

W.P.(C) No. 833 of 2013

(With appln(s) for directions & impleadment & office report)
(For final disposal)

T.C.(C) No. .../2013 @ T.P.(C) No. 47-48/2013

(With appln(s) for stay and deletion of the name of petitioner)
(For final disposal)

T.C.(C) No./2013 @ T.C.(C) No. 476/2013

(With appln(s) for stay)
(For final disposal)

Date: 26/11/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Soli J. Sorabjee, Sr. Adv.

Mr. Mehernaz Mehta, Adv.

Mr. Ankit, Adv.

Mr. Anil B. Diwan, Sr. Adv.

Mr. Ankit Goel, Adv.

Ms. Deepshikha Bharti, Adv.

Ms. Nachiketa Joshi, Adv.

M. Pattabhi Ram, Adv.

Mr. S.S. Shamsheerya, Adv.

Mr. Nishant Katreswar'kar, Adv.

Mr. Mehernaaz Mehta, Adv.

Mr. Sanjay Yadav, Adv.

Mr. Anish Kumar Gupta, Adv.

Mr. Mohit Chaudhary, Adv.

Ms. Varnika Singh, Adv.

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Mr. Imran Ali, Adv.

-2-

Ms. Damani Chawla, Adv.

Mr. Harsh Sharma, Adv.

Ms. Jyoti Mendiratta, Adv.

Mr. Shyam Divan, Sr. Adv.

Mr. Pratap Venugopal, Adv.

Ms. Meenakshi Chauhan, Adv.

Mr. Varun Singh, adv.

Mr. Anuj Sarna, Adv.

Mr. Nirman Sharma, Adv.

Mr. Abhinav Malhotra, Adv.

M/S. K.J. John & Co., Adv.

Mr. P.S. Narashima, Sr. Adv.

Mr. V. Mohana, Adv.

Mr. B. Raghunath, Adv.

Mr. S. Prasana, Adv.

Mr. Ishaan Geroje, Adv.

Mr. Vijay Kumar.

Ms. Aishwarya Bhati, Adv.

Mr. D.S. Mahra, Adv.

Mr. P.R. Kovilan, Adv.

Mrs. Geetha Kovilan, Adv.

For Respondent(s)

Mr. Mohan Parasaran, S.G.

Mr. Alok Kumar, Adv.

Mr. Alok Prassana, Adv.

Mr. Anupam Prasad, Adv.

Mr. D.S. Mahra, Adv.

Mr. Sunil Kumar, Sr. Adv.

Mr. Tapeshe Kumar Singh, Adv.

Mr. Mohd. Waquas, Adv.

Mr. Mohit D. Ram, Adv.

Ms. Madhvi Chaudary, Adv.

Mr. Vasu Anant Raman, Adv.

For Intervenors

Mr. L. Nageshwara Rao, ASG

Mr. Amit Meharia, Adv.

Ms. Khushbu Jain, Adv.

For M/s Meharia & Co., Adv.

Mr. Sai Krishna Rajgopal, Adv.

Ms. Julian George, Adv.

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Mr. Nikhil Nayyar, Adv.
Ms. Pritha Srikumar Iyer, Adv.
Mr. Dhananjay Baijal, Adv.
Ms. Akanksha, Adv.

UPON hearing counsel the Court made the following
O R D E R

After hearing the matter at length, we are of the view that all the States and Union Territories have to be impleaded as respondents to give effective directions. In view thereof notice be issued to all the States and Union Territories through standing counsel.

The advocates who have already entered appearance must file their replies within a period of three days from today.

Learned standing counsel for the States who were not represented may take instructions from their respective States and file their response within one week.

List this matter for further hearing on 10th December, 2013.
Interim order to continue, in the meantime.

[Neeta]
Sr. P.A.

[M.S. Negi]
Court Master

SUPREME COURT OF INDIA **218**
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).2524/2014

(From the judgement and order dated 26/02/2014 in CRLWP
No.10/2014, of The
HIGH COURT OF BOMBAY AT PANAJI)

UNIQUE IDENTIFICATION AUTH.OF INDIA &NR Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION Respondent(s)

(With appln. for exemption from filing c/c of the impugned Judgment and
office report)

Date: 24/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAJHAN

HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr. Mohan Parasarani, SG
Mr. Rakesh Khanna, ASG
Mr. Zohar Hossain, Adv.
Mr. Alok Mishra, Adv.
Mr. D.S. Mahra, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Issue notice.

In addition to normal mode of service, dasti service, is permitted.
Operation of the impugned order shall remain stayed.

In the meanwhile, the present petitioner is restrained from transferring
any biometric information of any person who has been
allotted the Aadhaar number to any other agency without his
consent in writing.

More so, no person shall be deprived of any service for want of
Aadhaar number in case he/she is otherwise eligible/entitled. All
the authorities are directed to modify their forms/circulars/likes
so as to not compulsorily require the Aadhaar number in order to
meet the requirement of the interim order passed by this Court
forthwith.

Tag and list the matter with main matter i.e. W/P(C)No.49-/2012

[Usha Bhardwaj]
A.R.-cum-P.S.

[M.S. Negi]
Assistant Registrar

// TRUE COPY //

ANNEXURE - P/12

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AFFIDAVIT

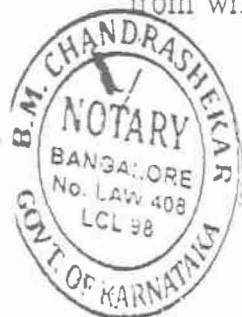
I, Samir Kelekar s/o Gurunath Kelekar, aged about 53 years and resident of # 337, 2nd Floor, Amar Jyothi Layout, Domlur Layout, Bangalore 560071 hereby solemnly affirm and declare that :-

1. That I have working experience of more than thirty (30) years in the field of IT and about 15 years of experience in the field of cyber security and that currently I am heading a company which I founded for the purpose of providing security solutions to organisations which need to protect themselves against Internet / Cyber / digital frauds.
2. That my firm's name is M/s. Teknotrends Software Pvt. Ltd.
3. That I graduated in electrical engineering from the Indian Institute, Mumbai (IIT, Mumbai) in 1983. Thereafter I obtained a post-graduate degree in Computer Engineering from Clemson University, South Carolina, USA.
4. That I hold a doctorate degree (PhD) in electrical engineering from Columbia University, New York, USA.
5. That I have done work for clients, including, Canara Bank, G E Health and MTN, a multi-national South African mobile phone company.
6. That I am aware that the Government of India is implementing "UID / Aachaar" based authentication for various government services and that private entities may also use the UID / "Aadhaar" database for identifying individuals.



Samir Kelekar

7. That I am aware that there are petitions before the Hon'ble Supreme Court of India challenging the said UID/ Aadhaar project on various ground, inter alia, that the said project poses a constitutionally impermissible danger to citizens' basic civil liberties including their privacy and I hereby allow this affidavit to be placed by one or more of the petitioners in support of their challenge on the said grounds to the said project.
8. That as someone with fairly extensive experience of cyber security, I can categorically state that this project is highly imprudent, as it throws open the clear possibility of compromising basic privacy by facilitating real-time and non-real-time surveillance of UID holders by the UID authority and other actors that may gain access to the authentication records held with the said authority or authentication data traffic as the case may be.
9. That I state that I have perused the documents that UIDAI have put out in relation to the design of the Aadhaar authentication system, and I can categorically state that it is quite easy to know the place and type of transaction every time such authentication takes place using a scanner for fingerprints or iris and the records of these in the UID / "Aadhaar" database. Knowing the various types of transactions done via a particular aadhar number would help UIDAI or related parties to track the behaviour of a person using Aadhar.
10. I state that biometric scanners also have IP Addresses and these IP addresses can be used to locate the place (city or town) from where the transaction took place. Any administrator of the

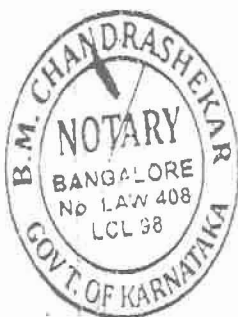


S. J. K. K.

UIDAI server or any employee or other person with access to transaction data, with a little help from the servers (Authentication User Agents and Authentication Server Agents, as they are called in UIDAI literature), through which authentication request is sent to the UIDAI, will be able to track the transaction and the person carrying out the same. Further, I also point out that UIDAI recommends that each point of service device i.e. the device from which an authentication request emanates, register itself with the UIDAI and acquire for itself a unique device id, which shall then be passed to the UIDAI along with the request for every authentication transaction. I state herein that the said method of uniquely identifying every device and being able to map every authentication transaction to be emanating from a unique registered device, further makes the task of tracking down the place from which an authentication request emanates easier.

11. I further state that there are technical tools that are available that make it easy and possible to track the electronic path that authentication requests from any given authentication device to the Central Identification Data Repository take as part of their authentication transaction.

12. I further wish to point out that today, it is well known that no security is perfect. The idea is to design a system where in in case of a breach, the damage is minimal and backups are available. Hence, passwords should be changeable. Biometrics as a password is problematic in that it cannot be changed if stolen / lost / hacked.



Sanjay Kulkarni

13. That secondly, a centralized database has the problem that once hacked all data can be lost. Specifically, consider if the Army personnel use this as an authentication mechanism before getting their salaries. The place from which they authenticate can be found as it will be done via a scanner which has an IP address / is on a mobile internet. This data will be available in the logs of the Aadhaar system or the logs of the intermediate servers. A compromise of the system having the above details means that the hackers can know the place of each army personnel of the country at the time when they take their salary. This can be a big risk to national security, and this is just one example as to why it is, in my opinion, imprudent to use such a system.

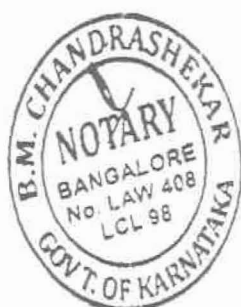
Sanjay K. Loka
DEPONENT

VERIFICATION

I, the deponent above-named, hereby solemnly declare and affirm that the contents of this affidavit in paragraphs 1 through 13 are all true and correct to the best of my knowledge and nothing material is concealed therefrom.

Verified on 6th day of April 2016.

Sanjay K. Loka
DEPONENT

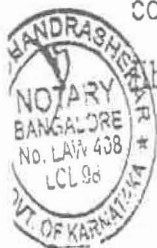


SWORN TO BEFORE ME
B.M. CHANDRASHEKAR
Advocate & Notary Public
#5, BDA Complex Koramangala,
BENGALURU - 560 034
Mob: 9448104253

AFFIDAVIT

I, Samir Kelekar s/o Gurunath Kelekar, aged about 53 years and resident of # 337, 2nd Floor, Amar Jyothi Layout, Domlur Layout, Bangalore 560071 hereby solemnly affirm and declare that :-

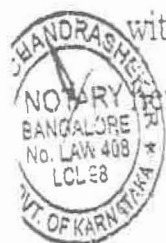
1. That I have working experience of more than thirty (30) years in the field of IT and about 15 years of experience in the field of cyber security and that currently I am heading a company which I founded for the purpose of providing security solutions to organisations which need to protect themselves against Internet / Cyber / digital frauds.
2. That my firm's name is M/s. Teknotrends Software Pvt. Ltd.
3. That I graduated in electrical engineering from the Indian Institute, Mumbai (IIT, Mumbai) in 1983. Thereafter I obtained a post-graduate degree in Computer Engineering from Clemson University, South Carolina, USA.
4. That I hold a doctorate degree (PhD) in electrical engineering from Columbia University, New York, USA.
5. That I have done work for clients, including, Canara Bank, G E Health and MTN, a multi-national South African mobile phone company.
6. That I am aware that the Government of India is implementing "UID / Aadhaar" based authentication for various government services and that private entities may also use the UID / "Aadhaar" database for identifying individuals.
7. That I am aware that there are petitions before the Hon'ble Supreme Court of India challenging the said UID/ Aadhaar project on various ground, inter alia, that the said project poses a constitutionally impermissible danger to citizens' basic civil liberties including their privacy and I hereby allow this affidavit



Samir Kelekar

to be placed by one or more of the petitioners in support of their challenge on the said grounds to the said project.

8. That as someone with fairly extensive experience of cyber security, I can categorically state that this project is highly imprudent, as it throws open the clear possibility of compromising basic privacy by facilitating real-time and non-real-time surveillance of UID holders by the UID authority and other actors that may gain access to the authentication records held with the said authority or authentication data traffic as the case may be.
9. That I state that I have perused the documents that UIDAI have put out in relation to the design of the Aadhaar authentication system, and I can categorically state that it is quite easy to know the place and type of transaction every time such authentication takes place using a scanner for fingerprints or iris and the records of these in the UID / "Aadhaar" database. Knowing the various types of transactions done via a particular aadhar number would help UIDAI or related parties to track the behaviour of a person using Aadhar.
10. I state that biometric scanners also have IP Addresses and these IP addresses can be used to locate the place (city or town) from where the transaction took place. Any administrator of the UIDAI server or any employee or other person with access to transaction data, with a little help from the servers (Authentication User Agents and Authentication Server Agents, as they are called in UIDAI literature), through which authentication request is sent to the UIDAI, will be able to track the transaction and the person carrying out the same. Further, I also point out that UIDAI recommends that each point of service device i.e. the device from which an authentication request emanates, register itself with the UIDAI and acquire for itself a unique device id, which shall then be passed to the UIDAI along with the request for every authentication transaction. I state

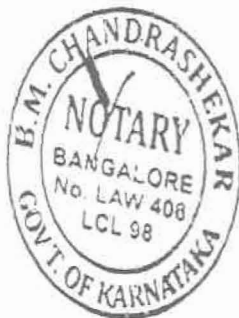


herein that the said method of uniquely identifying every device

S. J. K. K.

and being able to map every authentication transaction to be emanating from a unique registered device, further makes the task of tracking down the place from which an authentication request emanates easier.

11. I further state that there are technical tools that are available that make it easy and possible to track the electronic path that authentication requests from any given authentication device to the Central Identification Data Repository take as part of their authentication transaction.
12. I further wish to point out that today, it is well known that no security is perfect. The idea is to design a system where in in case of a breach, the damage is minimal and backups are available. Hence, passwords should be changeable. Biometrics as a password is problematic in that it cannot be changed if stolen / lost / hacked.
13. That secondly, a centralized database has the problem that once hacked all data can be lost. Specifically, consider if the Army personnel use this as an authentication mechanism before getting their salaries. The place from which they authenticate can be found as it will be done via a scanner which has an IP address / is on a mobile internet. This data will be available in the logs of the Aadhaar system or the logs of the intermediate servers. A compromise of the system having the above details means that the hackers can know the place of each army personnel of the country at the time when they take their salary. This can be a big risk to national security, and this is just one example as to why it is, in my opinion, imprudent to use such a system.



S. G. K. K.
DEPONENT

VERIFICATION

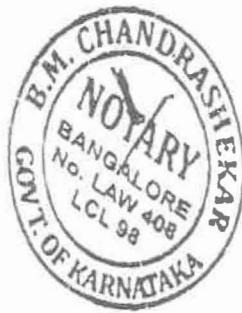
I, the deponent above-named, hereby solemnly declare and affirm that the contents of this affidavit in paragraphs 1 through 13 are all

true and correct to the best of my knowledge and nothing material
is concealed therefrom.

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Verified on Sixth (6th) day of April 2016.

Sanghvi
DEPONENT



SWORN TO BEFORE ME
Sanghvi
B.M. CHANDRASHEKAR
Advocate & Notary Public
#5, BDA Complex, Koramangala,
BENGALURU - 560 034
Mob: 9448104253

Annexure P-13AFFIDAVIT

I, BOOMI REGINA, W/o. Stephen Ramsingh, aged about 44 years, R/o. 136/A, 8th Main Road, New Bagalur Layout, St. Thomas Town Post, Bangalore — 560 084, do hereby solemnly affirm and state on oath as follows:-

The facts leading to the denial of my children being not enrolled for school scholarship are set out herein below;

1. I say that I am deposing in this affidavit after my children Alex S R (12 years) studying in 6th standard at Servite Higher Primary School, Davis Road, Bangalore and Catherine (14 years) in 9th standard at Jyothi English Medium High School, Kacharakanahalli, St. Thomas Town Post, Bangalore —560 084 having been denied the right to enroll for a scholarship at school because not enrolled for an Aadhaar card number.

2. I say that in the last week of June 2015, I applied for my children minority scholarship. I was asked by the school authorities to submit a Xerox copy

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of the fees receipt, photo, marks card and Aadhaar card of my children. Since my children does not possess the Aadhaar card, I did submit the fee's receipt, photo, marks card and ration card as identity document. The copy of my children school I.D card has been attached as Annexure 1 and copy of our family ration card as Annexure 2 to this affidavit. The school has returned all the documents on 30th Jul 2015 informing me through my children that without Aadhaar card, the application for scholarship will not be processed.

The annexure annexed to the present Affidavit are true and correct copies of their respective originals to the best of my knowledge. The contents of the present affidavit have also been read over and explained to me in vernacular.

DEPONENT

BANGALORE

DATE: 1st August 2015

SWORN TO BEFORE ME

VERIFICATION

I, the Deponent above BOMMI REGINA, do hereby verify that the contents of paragraph 1 to 2 of

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the above affidavit are true and correct to my knowledge and records available to me from public domain. No part of it is false and nothing material has been concealed there from.

DEPONENT

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Annexure P-14

AFFIDAVIT

I, Dr. Jean Dreze, sio Jacques Dreze, aged 56 years, r/o Department of Economics, Ranchi University, Morabadi, Ranchi 834001, presently Visiting Professor, Ranchi University, do hereby solemnly affirm and state on oath as under:

1. I have been permitted by the Petitioner in the present case to file and provide the present affidavit before this Hon'ble Court to bring certain limited facts of this Hon'ble Court, in support of the Writ Petition and prayer for interim relief.
2. I am associated with a help centre for workers employed under the National Rural Employment Guarantee Act (NREGA), located in the Block Office compound in Manika Block, Latehar District, Jharkhand. This help centre, managed by local volunteers under the guidance of James Herenj, was created in 2010 with the full support of the district administration.

3. During the last few months, it has come to the help centre's attention that local functionaries, and specifically Gram Rozgar Sevaks (GRS), are refusing applications for work from NREGA workers who do not have a UID number.

4. In several cases, the concerned GRS agreed to state in writing that they would accept work applications only from NREGA workers who have a UID number. A sample of these statements, with signature of the concerned GRS, is attached (Annexure 1).

5. The refusal to accept work applications without UID is a clear violations of earlier orders of the Hon'ble Court, including its order of March 2014 stating that "no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled".

6. James Herenj and I attempted to bring this evidence to the attention of the Hon'ble Court on 17th May 2015, when we sent the attached documents with a covering letter to the Hon'ble Court by email. However, in response we received (also by email) a letter from the Assistant Registrar informing us that

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"mails/letters received by email/post are not entertainable under the provisions of the Supreme Court Rules 2013" (Annexure 2).

Jean Dreze
[DEPONENT)

VERIFICATION

I, the Deponent above-named do hereby verify that the contacts of paragraph 1 to ___ of the above affidavit are true and correct to my knowledge and records available to me from public domain. No part if it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the ___ day of August, 2015

DEPONENT

233

Annexure P-15

AFFIDAVIT

I, Mr. Inder Singh, aged about 46 years, s/o Sh. Ghasi Ram, r/o 753/11, Baba Farid Puri, West Patel Nagar, New Delhi - 110 008 do hereby solemnly affirm and state an oath as under:-

1. I say that I am deposing this affidavit to state the difficulty and delay in obtaining a caste certificate and the delay and difficulty in obtaining the information relation to the status and delay of disposing of my application for the caste certificate by means of application for the sole reason that I have not enrolled for Aadhaar.

2. I say that I am aware of the fact that a number of writ petitions are pending before the Hon'ble Supreme Court challenging the constitutionality of the Aadhaar project and that there are interim orders of the Court stating that Aadhaar shall not be made mandatory for any purpose. I have been permitted by the petitioner in the said case before the Hon'ble Supreme Court to file the present affidavit before the

Hon'ble Court to bring certain limited facts in relation to the same.

3. I say that I applied for a caste certificate in 2012, when Aadhaar Card was not an essential requirement for this. There was huge delay of more than 6 months in responding to my application. I say that on 06.06.2013 I filed an RTI application to Sub-Divisional Magistrate Patel Nagar, GNCTD. Delhi querying for the status of the application.

4. I was aggrieved by the order of the PIO and as well as the first appellate authority not giving me satisfactory information in relation to the status of the application and preferred a second appeal to the Central Information Commission on 28.11.2014 and also because of the undue delay in disposing of my RTI Application.

5. I say that the CIC on the date of final hearing was told by the APIO that Aadhaar was a mandatory requirement for applying for caste certificate and as I did not specify the Aadhaar number, the application could not be processed. I say that pointed out to the CIC and the APIO representing the SDM that the

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interim orders of this Hon'ble Court instructing all authorities to modify all circulars, forms and the likes to indicate that Aadhaar is not mandatory and making Aadhaar not mandatory for availing any services.

6. I say that during the said hearing it became clear that the respondent Authority in that case had gone ahead and implemented a sweeping policy change of requiring Aadhaar as an essential requirement for a case certificate application to be processed, with widespread consequences without notifying or announcing to the public of such policy or requirement. It also became apparent that the authority was also reluctant to share the same requirement even when I applied to them querying for the status of my application and that this requirement was communicated only during the final hearing before the CIC. The CIC has rightly in its decision dated 8.1.2014 noted the same and has held the authority to be in violation of Sections 3 and 4 of the RTI Act. The copy of the said CIC order, reciting in detail the facts outlined above and the representations made by the respondent authority SDM and its decision is annexed herewith and marked as Annexure AAA-1.

DEPONENT

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VERIFICATION

I, the Deponent above-named do hereby verify that the contents of paragraph 1 to 6 of the above affidavit are true and correct to my knowledge and belief. No part if it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 4th day of August, 2015

DEPONENT

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Annexure P-16

AFFIDAVIT

I, Mr. Devta Deen, aged about 58 years, s/o Maha Dev,
r/o S-85/ H-75, La' Gummad, Malviya Nagar New Delhi
do hereby solemnly affirm and state an oath as under:

1. I say that I am deposing this affidavit to state the difficulty in getting gas subsidy solely for the reason of not having enrolled for Aadhaar and the delay and difficulty in obtaining the information in relation to the status of my application for the gas subsidy.
2. I say that I have a gas connection with Indane Gas and Co. for almost last three years. I was also availing the facility of gas subsidy but from last year I have been denied of the facility for not having an Aadhaar card which was made mandatory to be produced for availing the subsidy.
3. I say that I am aware of the fact that cases are pending before the Hon'ble Supreme Court

challenging the constitutionality of the Aadhaar project and that there are interim orders of the Court stating that Aadhaar shall not be made mandatory for any purpose. I have been permitted by the petitioner in the said case before the Hon'ble Supreme Court to file the present affidavit before the Hon'ble Court to bring certain limited facts in relation to the same.

4. I say that I was told by the gas authority that Aadhar is essentially required for which reason I even applied for Aadhaar around 5 times. But every time my application for Aadhaar gets rejected without giving any justified reason.
5. I say that I was aggrieved by the no action taken and as well as the appellate authority not giving me satisfactory information in relation to the status of the complaint
6. I say that I pointed out to the officer representing the gas Authority that the interim orders of this Hon'ble Court instructing all authorities to modify all circulars, forms and the likes to indicate that Aadhaar is not mandatory

for availing any services. However, the said officer paid no heed and reiterated that Aadhaar is mandatory for obtaining a ration card.

7. I say that I have visited the centre a number of times afterwards, including once in the last two weeks where the authority maintained that my application for the card could not be processed because of not having Aadhaar numbers. A ration card is very necessary for my family and Aadhaar has caused an impediment for me to get the ration card and access related services. It also became apparent that the authority was also reluctant to share the same requirement even when I applied to them querying for the status of my application.

DEPONENT

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VERIFICATION

I, the Deponent above-named do hereby verify that the contents of paragraph 1 to 4 of the above affidavit, which have been explained to me, are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 4th day of August, 2015

DEPONENT

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Annexure P-17

AFFIDAVIT

I, Mr. Sanjay, aged about 30 years, s/o Har Sahai, r/c S-85/68, Lal Gumbad Road, near Panchsheel Park, New Delhi - 110017 hereby solemnly state an oath as under:

1. I say that I am deposing this affidavit to state the difficulty and delay in obtaining a ration card of my children and the delay and difficulty in obtaining the information in relation to the status and delay of disposing of my application for the ration card by means of application for the sole reason that my children have not enrolled for Aadhaar.
2. I say that I have in my family a daughter Dipti aged 7 years and a son Piyush aged 4 year. My daughter; Dipti does not have an Aadhaar because her fingerprints were not readable by the biometric system and son Piyush does not have an Aadhaar card because of being below the age of 5 years which is the criteria to get enrolled for Aadhaar as was told to me by the Aadhaar

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enrolment authority. Thus are not provided with the ration card.

3. I say that I am aware of the fact that cases are pending before Hon'ble Supreme Court challenging the constitutionality of the Aadhaar project and that there are interim orders of the Court stating that Aadhaar shall not be made mandatory for any purpose. I have been permitted by the petitioner in the said case before the Hon'ble Supreme Court to file the present affidavit, before the Hon'ble Court to bring certain limited facts in relation to the same.
4. I say that I applied for a ration card in 2015. There was a huge delay of more than 6 months in responding to my application. I say that I have been visiting ration card centre and Aadhaar centre for the status of the application.
5. I say that I was aggrieved by the inaction and the fact that the authority was not giving me satisfactory information in relation to the status of the application.

6. I say that on the date of application around 6 months ago, I was told by the Ration Centre that Aadhaar was a mandatory requirement for applying for ration card and as I did not specify the Aadhaar number, the application could not be processed. I say that I pointed out to Ration Centre Officer representing the Ration Centre that the interim orders of this Hon'ble Court instructing all authorities to modify all circulars, forms and the likes to indicate that Aadhaar is not mandatory for availing any services. However, the said officer paid no heed and reiterated that Aadhaar was mandatory for obtaining a ration card.
7. I say that I have visited the centre a number of times afterwards where the authority maintained that my application for the card the card could not be processed because of my children not having Aadhaar numbers. A ration card is very necessary for my family and Aadhaar has caused an impediment for me to get the ration card and access related services.

DEPONENT

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VERIFICATION

I, the Deponent above-named do hereby verify that the contents of paragraph 1 to 4 of the above affidavit, which have been explained to me, are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 4th day of August, 2015

DEPONENT

AFFIDAVIT OF MR. NIKHIL DEY

I, Nikhil Dey, son of late Air Marshal Partha Kumar Dey, resident of Devdungri, Barar, Rajsamand, Rajasthan, aged about 53 years do hereby solemnly affirm and declare as under:-

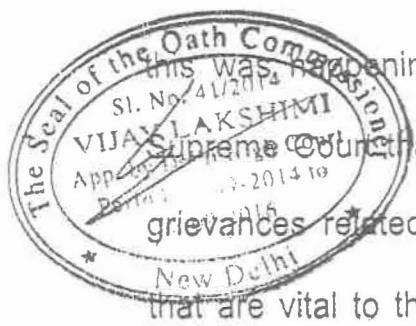
1. I state that I am engaged in social activism. In 1987, I along with Aruna Roy, Shankar Singh moved to village Devdungri (Barar, district Rajsamand, Rajasthan) and 3 years later, in 1990, along with many others, we founded the Mazdoor Kisan Shakti Sangathan (MKSS). This organization has been involved with initiating the campaign and movement for the Right to Information, where poor people demanded information so that they could monitor government programs and ensure efficient delivery of entitlements. Jan Sunwais (public hearings) held by the MKSS in the mid-nineties developed into social audits that allow citizens to monitor government programs, control corruption, and ensure delivery. It has turned out to be one of the most effective means of using evidence to ensure that a social sector program works as per its objectives.
2. I state that I am also a Petitioner in writ petition titled Aruna Roy & Anr. V Union of India & Ors. in W.P. No. 833/2013 before this Hon'ble Court, wherein the UID Scheme has been challenged. This writ petition also forms part of the batch of writ petitions pending before this Hon'ble Court.
3. I state that I am also a member of a network of organizations by the name of Samana Evum Rozgar Adhikar Abhiyan, Rajasthan. It was formed in 2005 to ensure the proper implementation of the Right to Information and Employment Guarantee Acts passed earlier that year. It is a platform that has brought together more than a 100 civil



society organisations in Rajasthan, to conduct social audits, citizen monitoring exercises, and trainings for grassroots level functionaries for better implementation of programs.

4. I state that from the 1st of December 2015 till the 10th of March 2016, the Sookna Evum Rozgar Adhikar Abhiyan carried out a 100-day yatra across the 33 districts of Rajasthan called the "Jawabdehi yatra". The yatra had approximately 80 people travelling from district to district, talking to people about delivery of social sector programs, and working to build a grievance redress and accountability framework for social sector entitlements. As a participant in the yatra, I have been to all the districts of Rajasthan in this time period. The yatra recorded grievances of people and filed them as complaints on the Rajasthan online complaints portal system called "Rajasthan Sampark". Around 9,227 grievances were recorded during the yatra of which many have been uploaded onto Rajasthan Sampark (A report of the current status of these grievances is attached herewith as Annexure 1). This affidavit also draws from evidence gathered and complaints received during the yatra that relate to the failure of the Aadhaar system.

5. I state that many of the complaints received related to the difficulty people were experiencing in obtaining their entitlements, particularly because Aadhaar had now been made mandatory and they had been forced into the Aadhaar based payment/delivery system. I state that this was happening despite the repeated orders of the Honorable Supreme Court that Aadhaar could not be made compulsory. These grievances related to the delivery of, individual based entitlements that are vital to the survival of lakhs of very poor and marginalized



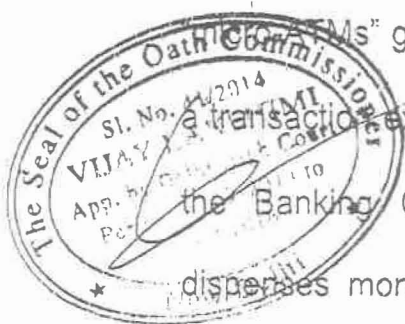
families who cannot survive without receiving rations, pensions, scholarships, etc.

6. An analysis of the complaints received shows that approximately 10% (1000) grievances relate to the delivery of pension entitlements. While some of these relate directly to obtaining an Aadhaar card, without which you are completely excluded, many others relate to authentication challenges and failures, and a large number of them arise from the entire Aadhaar based payment platform. Regardless of these grievances, it was obvious that the biometric authentication system through Point of Service (POS) devices used in ration shops and by Business Correspondents, was causing difficulty to all beneficiaries because of inefficiency, delay, and the inappropriate and coercive nature of the technological intervention. It has made it especially difficult for elderly people to receive timely pension payments every month.
7. I state that the State Government has decided to shift all pension payments from post offices to banks and make payments through aadhaar-based platforms. As of today, almost 70% of the accounts under the old age pension scheme have already been transferred to banks. The original method of pension disbursement took place through the post office where the door delivery of pension to the beneficiary had to be carried out by the postman through payment of ~~order~~ ^{order}. Today, pursuant to the linking up of the pension distribution system with the UID system, transactions were shifted to banks which made it particularly difficult for elderly and disabled people to reach the banks (often located at a long distance from them and sometimes even on the first floor or other inaccessible places).



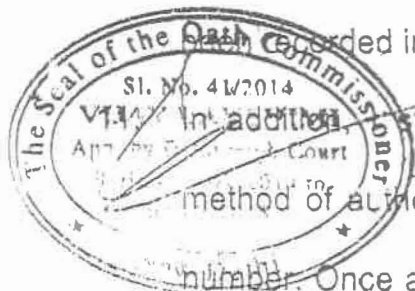
Rural banks are overloaded and under-staffed already, and find the added burden of 58 lakh new social security pension accounts with monthly transactions almost impossible to cope with. When the banks realized that they could not cope, they began to shift pension delivery to contract-based agents who they termed Banking or Business Correspondents (BCs). These are local people who sign a contract with the bank to deliver money on a commission basis. We have been told that the Banks have informed local people that for NREGA and pension accounts people can only apply to get their entitlements from the Banking Correspondent. Banks are refusing to deal with those whose accounts are related to NREGA or Pension. There are some banks that have even put up signs saying that all those operating zero-balance accounts should not come to the bank but should only go to the BC to operate their accounts. (Attached herewith as Annexure 2 – photo of the sign)

8. I state that regardless of the projected benefits, the Business Correspondent model has overriding potential danger that undermines the credibility of the entire banking system. The Business Correspondent model is a private individual, hired on contract, authorized to disburse money by authenticating customers on a Point of Service (POS) machine and disbursing money that the correspondent carries in person. The machines are incorrectly termed "ATMs" giving the false impression that money is dispensed on a transaction exclusively between the machine and customer. In fact, the Banking Correspondent (BC) is the human interface who dispenses money after using biometric authentication on the POS machine.



9. I state that the Banking Correspondents control machines that function like mobile Point of Service machines. Customers can operate their account through two modes of authentication and authorization: - (i) a person's debit/credit card can be swiped on the machine and cash is disbursed by the Banking Correspondent; or (ii) through biometric verification through fingerprints after which cash is disbursed by the BC. Both of these methods are linked to the Aadhaar based platform.

10. I state that we have found that elderly people have biometrics that are often not authenticated by the machine. In addition, they inevitably have to make two or three attempts before the process is complete. The dangers this brings forth are obvious because the BC can easily record two or more transactions and only provide money to the customer for one of them, while using the other authentications to access the customer's bank account and even stealing the customer's money. Potentially this could wipe out an elderly person's lifetime savings without them knowing about it. It is like handing over a signed blank cheque to an unknown, commission-based agent. Should any fraud of this nature take place, the customer will find it impossible to prove the fraud, as their own thumb impressions would have recorded their authentication and authorization. I further state that complaints related to such instances of corruption have been already



been recorded in some districts.

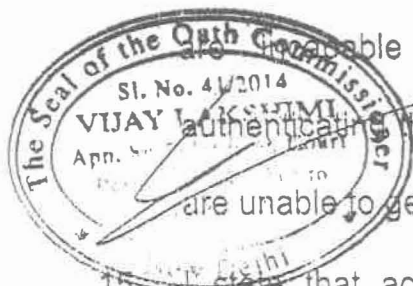
In addition, I state, that if biometrics do not work, the alternative method of authentication is through a "smart card" and an ATM pin number. Once again, the customer hands over their ATM card to the BC to be swiped and reveals their PIN number to them to obtain

cash. The implications of revealing their PIN number and having the human interface of the BC in this transaction are once again obvious on the face of it. In effect it breaks down the only safeguard in the ATM cash disbursement system that allows it to function through the elimination of the human interface.

12. I state that during my interactions with the people, I was informed that when people go to the Banking Correspondent, they usually demand twenty or thirty rupees, before they give the pension. Banking Correspondents are free to operate wherever they want. There is no compulsion or regulation that requires the BC to go to each beneficiary. They are free to operate from any private location and generally operate from their own residence or shop to which people have to travel sometimes from great distances.

13. I state that the potential for misuse as explained, is enormous, where most people who come to receive their payments and entitlements through pension and NREGA are poor and usually illiterate or semi-literate.

14. I state that in the case of pension distribution, the biometrics of the aged individual usually do not work. The elderly are simply unable to authenticate themselves because their fingerprints/iris records do not match. Age causes their biometrics to shift and change and machines



are unable of recognizing these changes and therefore authenticating the elderly. As a result of which many elderly persons are unable to get their pension.

15. I state that across Rajasthan, the problems faced in the Public Distribution System (PDS) point to a crisis situation. Today, the ration shops have been given a device through which a beneficiary must

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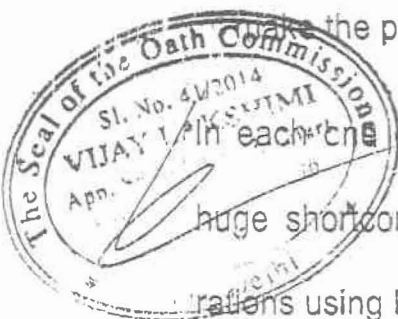
authenticate themselves through the biometric data submitted to the UIDAI in order to get rations.

16. The biometric authentication system has to work to perfection to be of any value because any failure would be exclusion. On the other hand, allowing exclusion (through manual override) is opening the floodgates to exceptions to the system. Obviously exceptions can always be used to give the wrong person a benefit defeating the entire stated purpose of the whole exercise. For this it is important to understand the process. The ration shop dealer directs the beneficiary to authenticate their fingerprint through the Point of Service machine. The machine sends that information to the central UID server from where the biometric is matched against the entire base and is sent back through the internet with a message saying whether or not authentication has been successful. The entire process is dependent on

- a. A perfectly working machine with uninterrupted power supply
- b. A high level of internet connectivity right through the transaction period
- c. An individual whose biometrics have not changed or been affected by age or work or other factors
- d. A ration shop dealer who is willing to go out of his way to help

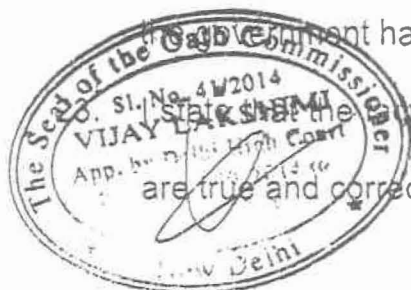
the process functional

In each one of the necessary conditions stated above there are huge shortcomings that have led to a disaster in distribution of rations using POS machines in Rajasthan.



17. I state that the POS device functions using the Internet through a SIM card and it is charged using electricity. A number of factors contribute to its failure. One such factor is the lack of electricity and proper internet connectivity in most of the rural regions. It is a fact that rural areas there is limited Internet connectivity and electricity is intermittent.
18. I state that all this has contributed to the fact more than 40-60% of transactions for entitlements under PDS in different districts in Rajasthan are successfully completed through authentication by the POS device.
19. I state that therefore that this project is not efficient, not inclusive and does not fight corruption. There are massive queues in both banks and ration shops today due to the increased time and failures caused by the UID authentication system. It can take almost 7-8 extra minutes in this process now due to authentication now. The process is further lengthened by the fact that when biometric authentication fails in ration shops, ration shop dealers ask beneficiaries to either bring other members of their families and when internet connectivity is poor, ration shop dealers ask beneficiaries to wait and finally to come the next day.
20. I state that, another aspect which I noticed during my interaction with the local people was the high level of discretion of the Banking Correspondent and Ration Shop owners in using the UID system for authentication. Even when the machine works properly, people's inability to comprehend it allows dealers/correspondents to miscommunicate the result and thereby manipulate the transaction.

21. I state that across Rajasthan, Ration Shop Owners have often used their discretion to pilfer rations by using the manual override facility that bypasses the biometric authentication.
22. I state that in some districts when the manual override option was put to a halt by district administration there was such high number of exclusions due to failure of the UID system and so much anger, that the government had to withdraw its order.



I state that the facts and statistics stated in the preceding paragraphs are true and correct to the best of my knowledge and belief.

Nikhil Dey

DEPONENT

VERIFIED
I identified the deponent who has signed in my presence.

21 APR 2016

VERIFIED at _____ on this the _____ day of _____, 2016 that the contents of the above affidavit are true and correct to my knowledge and belief and the legal submissions are made on legal advice. Nothing false is stated therein or material concealed there from.

Nikhil Dey

DEPONENT

CERTIFIED THAT THE DEPONENT
Shri/Smt/Km. _____ Aged _____
S/o, W/o, D/o _____
R/o _____
Identified by Shri/Smt. _____
has solemnly affirmed before me at _____
on _____ at Sl. No. _____
that the contents of the affidavit which have
been read & explained to him are true and
correct to his knowledge.

ATTESTED

Oath Commissioner
Delhi

Oath Commissioner, Delhi

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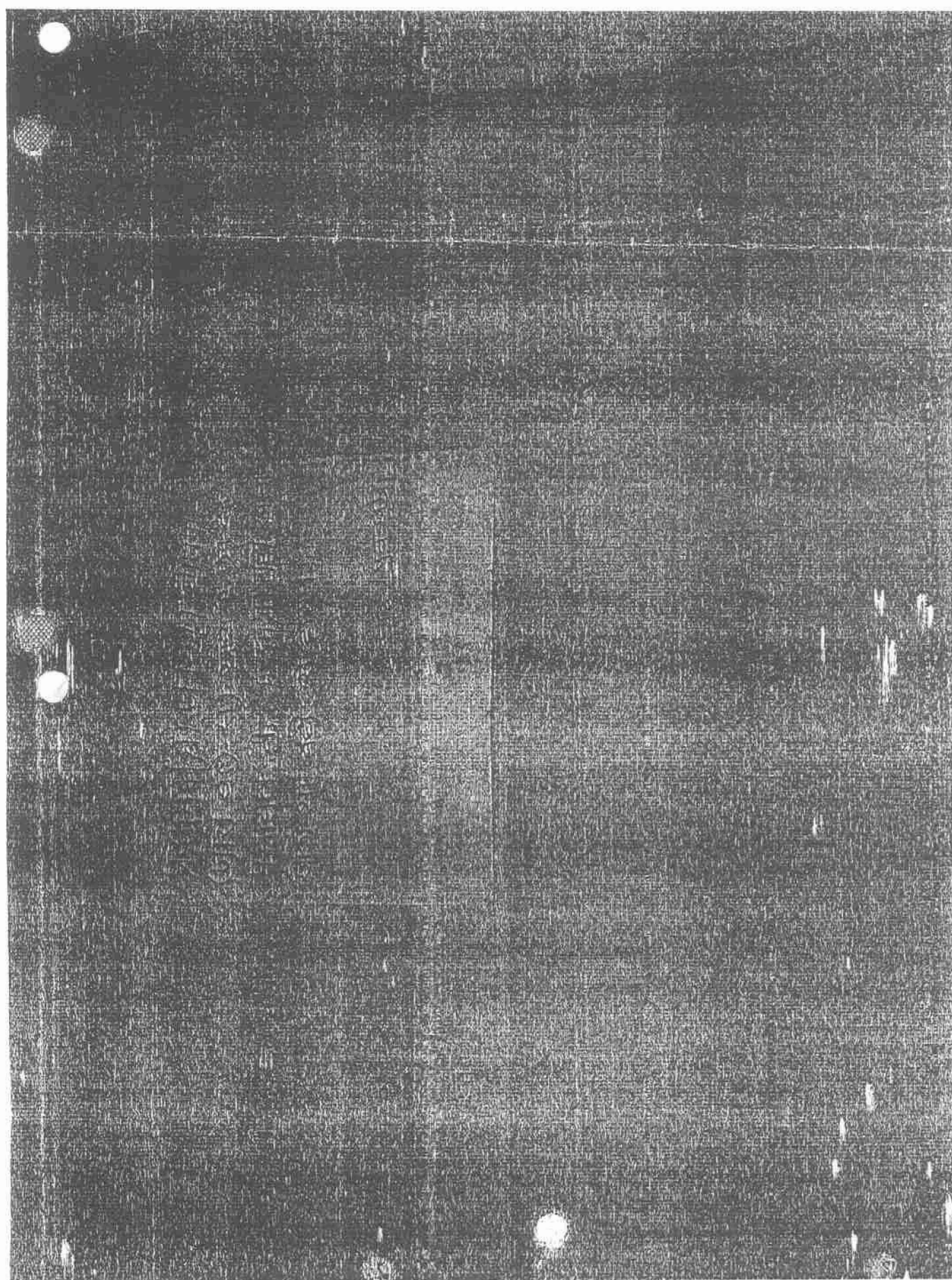
Jawabdehi Yatra

S.No.	Distri	District wise registered grievances summary										Total by old mis
		Social Justice and empowerment dept.	Public works dept.	Food and Civil supply dept.	PR and RD dept	PHED	Forest Dept.	Health Dept.	Land Revenue Dept.	District Collector	Other	
		Social Security Pension		Ration, FDS	NREGA, IAY							
1	Jaipur	5	3	3	0	5	0	2	10	0	9	37
2	Ajmer	146	6	53	53	10	0	7	15	5	54	349
3	Rajsamand	53	3	56	24	5	2	2	11	7	30	193
4	Pali	86	4	77	21	4	44	4	66	2	46	354
5	Jafore	88	5	41	63	13	0	7	23	1	60	301
6	Sirohi	121	1	82	23	9	62	0	26	0	101	425
7	Udaipur	243	26	621	168	73	133	3	59	3	150	1479
8	Dungarpur	138	3	474	90	62	267	0	456	0	46	1536
9	Banswara	19	0	30	16	19	43	1	3	0	27	158
10	Pratapgarh	11	1	23	15	7	9	0	3	0	19	88
11	Bhilwara	80	8	125	118	6	64	5	39	7	84	536
12	Chittaurgarh	5	0	96	5	0	1	9	2	0	15	133
13	Bundi	10	0	16	4	1	0	0	1	68	6	106
14	Kota	94	2	56	15	2	0	2	12	3	43	229
15	Baran	27	10	137	95	16	12	1	118	20	21	457
16	Jhalawad	9	0	13	10	2	0	0	5	1	0	40
17	Tonk	8	1	27	8	0	0	0	11	0	7	62
18	Sawai Madhopur	1	1	2	4	2	0	0	1	1	4	16
19	Karauli	79	2	136	25	1	0	1	6	32	10	292
20	Dhaulpur	102	1	382	128	18	2	1	1	1	17	653
21	Bharatpur	30	0	30	21	4	1	1	10	2	28	127
22	Dausa	38	1	16	10	5	0	0	3	0	18	91

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23	Alwar	15	1	9	16	4	0	0	0	1	10	56
24	Sikar	16	5	16	5	6	0	1	3	2	20	74
25	Jhunjhunu	25	20	71	5	21	1	10	0	4	44	201
26	Churu	6	3	4	57	3	0	0	1	0	5	79
27	Shri Ganganagar	0	0	0	0	0	0	0	0	0	0	0
28	Hanumangarh	0	0	1	1	0	0	2	0	0	2	6
29	Bikaner	19	3	6	23	2	1	1	25	11	47	138
30	Jaisalmer	2	2	2	15	6	0	0	42	8	24	101
31	Barmer	123	1	220	77	18	0	1	34	7	60	541
32	Jodhpur	22	2	84	135	26	0	2	49	9	86	415
33	Nagaur	5	0	2	5	3	0	2	2	0	5	24
												0
Total		1626	115	2911	1255	353	642	65	1037	195	1098	9297
	%	17.49	1.24	31.31	13.50	3.80	6.91	0.70	11.15	2.10	11.81	

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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. OF 2016
IN
CIVIL WRIT PETITION NO. OF 2016**

IN THE MATTER OF:

S. G. Vombatkere & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respor dents

AN APPLICATION FOR INTERIM RELIEFS

To

THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONERS ABOVENAMED.

MOST RESPECTFULLY SHEWETH:

1. The Petitioner have filed the accompanying writ petition under Article 32 of the Constitution of India in public interest challenging the constitutional validity of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016, raising various issues, including among others, protection of fundamental rights under Article 14, 19 and 21 of the Constitution of India. The Petitioners submit that the accmpanying writ petition may be treated as part and parcel of this application and the contents of the same are not repeated herein for the sake of brevity.

2. The Petitioner, inter alia, seek appropriate declarations to the effect that the impugned Act is *ultra vires* the Constitution of India. Should this Court uphold the validity of the impugned Act, the Petitioner urge an alternative case directed against specific provisions of the impugned Act and seek appropriate declarations with respect to the unconstitutionality of these provisions. The Petitioner seek appropriate declarations regarding their fundamental right to informational self-determination being a facet of Article 21 of the Constitution. Furthermore, the Petitioner seek appropriate writs, orders and directions with respect to the collection, retention, destruction and use of biometric and demographic information and data of the citizenry under the direct or indirect control of Respondents or which has been gathered by the Respondents or third party enrollers pursuant to the Aadhaar project.
3. The impugned Act was published in the Gazette of India on 26.03.2016 and was brought into force on 12.7.2016. The 2nd Respondent was established as a statutory authority on 12.7.2016.
4. It is submitted that under the impugned Act, the Respondents have made the possession of an Aadhaar number as a mandatory condition to avail of essential services, subsidies and other benefits provided by Government as well as non-governmental and private bodies.

5. It is submitted that this Hon'ble Court is already in session of a batch of writ petitions challenging the Aadhaar project. The matter is pending adjudication before a Constitution Bench of this Hon'ble Court. In the previous writ petitions, this Hon'ble Court passed a series of interim orders directing the Respondents to not make Aadhaar number a mandatory requirement for availing any service, subsidy and benefit, which the individual is otherwise entitled to. Notably, a Constitution Bench of this Hon'ble Court vide interim order dated 15.10.2015, *inter alia*, held that

"5. We will also make it clear that the Aadhaar card scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."

6. In spite of the repeated directions given by this Hon'ble Court to not make Aadhaar number a mandatory requirement for availing any services, subsidies and benefits, various authorities have continued to flout and disobey the directions of this Hon'ble Court. Now by virtue of Section 7 of the impugned Act, the Respondents, in total disregard to this Hon'ble Court's directions, seek to statutorily make Aadhaar number a mandatory requirement.
7. As elaborated in the accompanying writ petition, the impugned Act is unconstitutional on various grounds amongst which is the denial of basic services, subsidies and benefits which the government is obligated to provide, on the sole basis that the individual refuses to part with his or her biometrics, which is a

basic requirement for an Aadhaar number does not possess an Aadhaar number. It is submitted that a citizen under Part III and Part IV of the Constitution of India, is entitled to enjoy various social and civil rights such as right to receive education, a scholarship, medical assistance, pensions and benefits under government scheme without having to part with his or her personal biometrics. An individual's biometrics such as finger prints and iris scan are the property and entitlement of that individual and the State cannot coerce an individual or direct him or her to part with biometrics as a condition for the exercise of rights or the enjoyment of entitlements.

8. It is further submitted that under the impugned Act, the authentication process uses biometrics. Biometrics as a technology is unreliable and as applied by the Respondents is serving as an instrument of exclusion depriving persons who are otherwise entitled to financial and other subsidies, benefits and services from receiving these entitlements. Going by the stand of UIDAI itself, the number of cases where de-duplication resulted in the rejection of an application for an Aadhaar number is to the tune of 9 crores out of around 99 crore enrolments. The number 9 crores is just a little less than the population of the State of Bihar and twice the population of Odisha (as per the 2011 census). This shows that every 10th person is not being issued an Aadhaar number (though applied for) because of the flawed biometric technology being used. Further, one study using official data shows that the proportion of "false positives"

i.e. duplicates being shown erroneously is unacceptably high, resulting in exclusion of those entitled to benefits. This study suggests that 1/121 is the proportion of false positives by a conservative estimate. This ratio is strongly indicative of the programme excluding individuals who should otherwise receive their entitlements.

9. The accuracy of biometrics is highly doubtful for a variety of reasons: A person's biometrics change over time; for persons who are engaged in manual labour and also persons who are aged, etc. ridges on the fingers smoothen out and cannot be captured effectively by biometric devices; and there is no safeguard at the crucial point of capturing the biometric that ensures the integrity of the process at the stage of enrolment.
10. It is submitted that the present writ petition is a bona fide public interest litigation filed by the Petitioner herein to prevent violation of basic human rights that have already occurred as a result of the Aadhaar project and which violations will escalate in the future unless checked by this Hon'ble Court. It is submitted that this Hon'ble Court ought to protect the fundamental rights of its citizens/residents and prevent the Respondents from making entitlements subject to such an onerous and unconstitutional condition. It is submitted that a strong prima facie case has been made out in the application and the accompanying writ petition for violation of Article 14, 19 and 21 of the Constitution of India. In such circumstances, the balance

of convenience would lie in grant of interim orders in terms of the prayers made herein.

PRAYERS

In the foregoing circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Pass an order staying the operation and implementation of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016, pending the hearing and final disposal of the petition;
- b) Pass an order of injunction restraining the Respondents, their officers and agents from carrying on any further enrolment for Aadhaar, pending the hearing and final disposal of the petition;
- c) Pass an order restraining the Respondents, their officers and agents from carrying on enrolment for Aadhaar of children who are below the age of 18 in any manner whatsoever, pending the hearing and final disposal of the petition;
- d) Pass an order declaring that no person may be deprived of receiving any financial subsidy or other subsidy or benefit or services from the State on the ground that he or she does not have an Aadhaar number, pending the hearing and final disposal of the petition;

- e) Pass an order declaring that no person may be deprived of receiving any goods, services or facility from the State or any private entity on the ground that he or she does not have an Aadhaar number, pending the hearing and final disposal of the petition;
- f) Pass an order declaring that no person may be deprived of any entitlement in law enforceable against the State or its organs or any private entity on the ground that he or she is does not have an Aadhaar number, pending the hearing and final disposal of the petition;
- g) Pass an order declaring that the State as well as service providers are duty bound to provide equally efficacious methods of access to subsidies, benefits and services as well as for the enforcement of entitlements, without requiring a citizen or person to part with his or her biometrics, pending the hearing and final disposal of the petition;
- h) Pass an order declaring that every citizen has a fundamental right to informational self-determination which includes a right to withhold biometric as well as demographic information from the State and to place limits on the extent and use of information pertaining to that individual, pending the hearing and final disposal of the petition;

- i) Pass an order declaring that no person can be deprived of exercising constitutional, statutory, common law, contractual, customary and other rights that he or she otherwise enjoys by the State making the exercise of these rights conditional upon an Aadhaar number or Aadhaar enrolment, pending the hearing and final disposal of the petition;
- j) Pass an order directing the Respondents to conduct a suitable nationwide public campaign in the electronic and print media including radio and television network explaining to persons that it is not mandatory for an individual to obtain an Aadhaar number to avail subsidies, services and other benefits as stated in the impugned Act, pending the hearing and final disposal of the petition;
- k) Pass an order restraining the Respondents from transferring any information collected from any person who has been allotted the Aadhaar number to any other agency without his consent in writing, pending the hearing and final disposal of the petition;
- l) Pass an ex-parte interim order in terms of prayers (a) to (k) herein above and confirm the same after Notice of Motion, pending the hearing and final disposal of the petition; and

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- m) Pass such other order(s)/direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL,
AS IN DUTY BOUND, EVER PRAY

FILED BY:

M/s. K.J. JOHN & CO.,
Advocates for the Petitioners

FILED ON: 11.08.2016

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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. OF 2016**

IN THE MATTER OF:

Mr. S.G. Vombatkere & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Bezwada Wilson, S/o (Late) Shri Yacob, aged about 47 years,
R/o 36/13 Ground Floor, East Patel Nagar, New Delhi, do hereby
solemnly affirm and state as under:

1. I am the Petitioner No. 2 herein, I am fully conversant with the facts and circumstances of the Present case and am as such competent to swear the present affidavit on behalf of the Petitioners.
2. I say that I have no personal interest, motive, gain or oblique reasons in the filing of the accompanying Petition and the same is being filed purely in general public interest.


DEPONENT

VERIFICATION:

Verified at New Delhi on this the day of September, 2016 that the contents of paragraphs 1 to 2 of my above affidavit are true and correct to my knowledge, information and belief, that no part of it is false and nothing material has been concealed there from.


DEPONENT